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No. 41] NEW DELHI, OCTOBER 4—OCTOBER 10, 2015, SATURDAY/ASVINA 12—ASVINA 18, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)
नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1923.—केन्द्र सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए व्यापम द्वारा संचालित विभिन्न परीक्षाओं में भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) की धारा 3 के अधीन किए गए अपराधों की दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) के अंतर्गत केन्द्रीय अन्वेषण ब्यूरो द्वारा की जा रही जांच तथा मध्य प्रदेश सरकार की अधिसूचना सं० एफ०एन० 1/5/96/XX-बी (एक)/2220/2015 दिनांक 28 जुलाई, 2015 द्वारा अधिसूचित विचारण न्यायालयों में अभियोजन का संचालन करने तथा उन मामलों से उत्पन्न प्रासंगिक अन्य मामलों में अपील/पुनरीक्षण हेतु निम्नलिखित अधिवक्ताओं को विशेष लोक अभियोजकों के रूप में नियुक्त करती है; नामतः :—

- (1) श्री सतीश दिनकर
- (2) श्री नथी मल छत्रीवाल
- (3) श्री रंजन शर्मा

- (4) श्री एस०एस०एच० रिजवी
- (5) श्री मुकेश कुमार मिश्रा
- (6) श्री पवन कुमार पाठक
- (7) श्री रमा शंकर तिवारी

[फा० सं० 225/19/2015—एवीडी-II]

अजीत कुमार, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 1st October, 2015

S.O. 1923.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints the following Advocates as Special Public Prosecutors for conducting prosecution in the Trial Courts, notified by the Government of Madhya Pradesh vide Notification No. F.N. 1/5/96/XX-B(one)/2220/2015, dated 28th July, 2015, to try the cases relating to the offences specified under section 3 of the Prevention of Corruption Act, 1988 (49 of 1988) in relation to various examinations,

conducted by Vyapam and investigated under the Delhi Special Police Establishment Act, 1946 (25 of 1946) by the Central Bureau of Investigation and appeals or revisions or other matters connected therewith or incidental thereto namely:—

1. Shri Satish Dinkar
2. Shri Nathi Mal Chhatrival
3. Shri Ranjan Sharma
4. Shri S.S.H. Rizavi
5. Shri Mukesh Kumar Mishra
6. Shri Pawan Kumar Pathak
7. Shri Rama Shankar Tiwari

[F.No. 225/19/2015-AVD-II]
AJIT KUMAR, Under Secy.

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

शुद्धि-पत्र

नई दिल्ली, 7 अक्टूबर, 2015

का.आ. 1924.—21 अगस्त, 2015 की अधिसूचना संख्या 20/2/2012-आईएफ-II को निम्नानुसार पढ़े जाने के लिए संशोधित किया जाता है:

“रुग्ण औद्योगिक कंपनी (विशेष उपबंध) अधिनियम, 1985 की धारा 6 की उप-धारा (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, न्यायमूर्ति महाराज सिन्हा, अध्यक्ष, औद्योगिक और वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण (एएआईएफआर) के कार्यकाल के दिनांक 15.08.2015 को पूरा होने के परिणामस्वरूप,

श्री आर० सी० मिश्रा को औद्योगिक और वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण (एएआईएफआर) के वरिष्ठतम सदस्य होने के कारण उन्हें पदभार ग्रहण करने की तारीख से एएआईएफआर के समापन तक या अगले आदेशों तक, जो भी पहले हो, औद्योगिक और वित्तीय पुनर्निर्माण अपीलीय प्राधिकरण में अध्यक्ष के रूप में कार्य करने के लिए प्राधिकृत करती है।”

[फा० सं० 20(02)/2002-आईएफ-II (खंड-III)]

एम० एम० दौला, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

CORRIGENDUM

New Delhi, the 7th October, 2015

S.O. 1924.—The Notification No. 20/2/2012-IF-II dated 21st August, 2015 is amended to read as under:

"Consequent upon completion of tenure of Justice Maharaj Sinha, Chairman, Appellate Authority for Industrial and Financial Reconstruction (AAIFR) on 15.08.2015, the Central Government, in exercise of the powers conferred by sub-section (5) of Section 6 of the Sick Industrial Companies (Special Provisions) Act, 1985, hereby authorise Shri R.C. Mishra, being the senior most Member in AAIFR, to act as Chairman, AAIFR with effect from the date of assumption of the charge of the post till abolition of AAIFR or until further orders, whichever the event takes place earlier".

[F.No. 20(02)/2002-IF-II (Vol. III)]

M. M. DAWLA, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय
(उपभोक्ता मामले विभाग)
(भारतीय मानक ब्यूरो)

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1925.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:-

अनुसूची

क्र० सं०	लाइसेंस सं०	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्ष	भा०मा० सं० (भाग/अनुभाग) वर्ष
1.	6500007198	20150803	मैसर्स प्रेम इंजीनियरिंग एस० एफ० सं० 630/2, कस्तूरी नायकन पालयम, वडवल्ली पोस्ट, कोयम्बतूर - 641 041	गहरे कुओं के लिए निम्नजनीय पम्पसेट	IS 14220 : 1994
2.	6500007299	20150805	मैसर्स जॉय आलुक्कास इंडिया प्राइवेट लिमिटेड, 229/230, कुमरन रोड, टाउन हॉल के सामने, तिरुप्पुर - 641 601	स्वर्ण एवं स्वर्ण मिश्र धातुएं, आभूषण/शिल्पकारी-शुद्धता एवं मुहरांकन	IS 1417 : 1999

क्र० सं०	लाइसेंस सं०	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्ष	भा०मा० सं (भाग/अनुभाग) वर्ष
3.	6500007404	20150806	मैसर्स सोयल इंडस्ट्रीस एस एस सं० 319, श्री रामनगर एक्स्टेंशन, एफ सी आई रोड, पीलमेडु, कोयम्बतूर - 641 004	साफ, ठंडे पानी के लिए अपकेन्द्रीय पुनरुत्पादक पम्प	IS 8472 : 1998
4.	6500007505	20150806	मैसर्स सोयल इंडस्ट्रीस एस एफ सं० 319, श्री रामनगर एक्स्टेंशन, एफ सी आई रोड, पीलमेडु, कोयम्बतूर - 641 004	गहरे कुओं के लिए निम्नजनीय पम्पसेट	IS 14220 : 1994
5.	6500007606	20150812	मैसर्स सीसन एक्वा दरवाजा सं० 570-A, अविनाशि रोड, पी० एन० पालयम, कोयम्बतूर - 641 037	पैकेजबंद पेय जल (पैकेजबंद मिमरल जल के अलावा)	IS 14543 : 2004
6.	6500007707	20150819	मैसर्स जॉय आलुक्कास इंडिया प्राईवेट लिमिटेड, 229/230, कुमरन रोड, टाउनहॉल के सामने, तिरुप्पुर - 641 601	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता एवं मुहरांकन	IS 1417 : 1999
7.	6500007808	20150819	मैसर्स इंटर गोल्ड जेम्स प्राईवेट लिमिटेड आहूजा टॉवर 42, टी० वी० स्वामी रोड (पश्चिम), आर० एस० पुरम, कोयम्बतूर - 641 002	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता एवं मुहरांकन	IS 1417 : 1999

[सं० सीएमडी/13:11]

एम० सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 1st October, 2015

S.O. 1925.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule:

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and Address (Factory) of the Party	Title of the Standard	IS No. Part/ Sec. Year
1.	6500007198	20150803	M/s. Prem Engineering SF No. 630/2, Kasturi Naicken Palayam, Vadavalli Post, Coimbatore - 641 041	Openwell Submersible Pumpsets	IS 14220 : 1994

Sl. No.	Licence No.	Grant Date	Name and Address (Factory) of the Party	Title of the Standard	IS No. Part/ Sec. Year
2.	6500007299	20150805	M/s. Joy Alukkas India Private Limited 229/230, Kumaran Road, Opp. Townhall, Tiruppur - 641 601	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking	IS 1417 : 1999
3.	6500007404	20150806	M/s. Soyal Industries SF No. 319, Sri Ramnagar Extension, FCI Road, Peelamedu, Coimbatore - 641 004	Centrifugal Regenerative Pumps for clear, Cold Water	IS 8472 : 1998
4.	6500007505	20150806	M/s. Soyal Industries SF No. 319, Sri Ramnagar Extension, FCI Road, Peelamedu, Coimbatore - 641 004	Openwell Submersible Pumpsets	IS 14220 : 1994
5.	6500007606	20150812	M/s. Season Aqua D No. 570-A, Avinashi Road, P.N. Palayam, Coimbatore - 641 037	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
6.	6500007707	20150819	M/s. Joyalukkas India Private Limited 229/230, Kumaran Road, Opp. Townhall, Tiruppur - 641 601	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking	IS 1417 : 1999
7.	6500007808	20150819	M/s. Inter Gold Gems Pvt. Ltd. Ahuja Tower, 42, T.V. Swamy Road(W), R.S. Puram, Coimbatore - 641 002	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking	IS 1417 : 1999

[No. CMD/13:11]

M. SADASIVAM, Scientist 'F' & Head

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1926.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियमन 5 के उपविनियमन (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/स्थगित कर दिया गया है:-

अनुसूची

क्र० सं०	लाइसेंस सं०	लाइसेंसधारी का नाम व पता	स्थगित किए गए/रद्द किए गए लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द होने की तिथि
1.	6500004697	मैसर्स रेइनट्री बीवरेजस सं 6/154-D, कुप्पुचीपालयम, अल्ललपुल्लुम रोड, कारैपुदुर गाँव, वीरापान्डी पोस्ट, तिरुप्पुर-641 605	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा) IS 14543 : 2004	07/08/2015

[सं० सी एम डी/13:13]

एम० सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 1st October, 2015

S.O. 1926.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licence particulars of which are given below have been cancelled/suspended with effect from the date indicated against each:—

SCHEDULE

Sl. No.	Licence No. CML-	Name & Address of the Licensee	Article/Process with relevant Indian Standard covered by the licence cancelled/suspension	Date of Cancellation
1.	6500004697	M/s. Raintree Beverages No. 6/154-D, Kuppuchipalayam, Allalapuram Road, Karaipudur Village, Veerapandi Post, Tirupur-641 605	Packaged Drinking Water (other than Packaged Natural Mineral Water) IS 14543: 2004	07/08/2015

[No. CMD/13:13]

M. SADASIVAM, Scientist 'F' & Head

विधि और न्याय मंत्रालय

(विधि कार्य विभाग)

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1927.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987) के नियम 10 के उपनियम (4) के अनुसरण में, विधि और न्याय मंत्रालय, विधि कार्य विभाग के प्रशासनिक नियंत्रण के अधीन निम्नलिखित कार्यालय को, जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

1. आयकर अपीलीय अधिकरण, पुणे न्यायपीठ, पुणे

[फा सं ई-11011(3)/2015-राभा(विका)]

टी० एन० तिवारी, अपर सचिव

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 1st October, 2015

S.O. 1927.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976 (as amended in 1987), the Central Government hereby notifies the following Office under the administrative control of the Department of Legal Affairs, Ministry of Law and Justice, where more than 80% staff have acquired the working Knowledge of Hindi:

1. Income Tax appellate Tribunal, Pune Bench, Pune.

[F.No.E-11011(3)/2015-O.L.(L.A.)]

T. N. TIWARI, Addl. Secy.

संचार और सूचना प्रौद्योगिकी मंत्रालय
(इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी विभाग)

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1928.—केंद्र सरकार, एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी विभाग के अंतर्गत

आने वाली राष्ट्रीय इलेक्ट्रॉनिकी एवं सूचना प्रौद्योगिकी संस्थान (नाइलिट) नामक स्वायत्त संस्था के सी-134, पुनकॉम भवन, औद्योगिक क्षेत्र, फेज़-VIII, सेक्टर-72, एस०एस०नगर, मोहाली स्थित कार्यालय, जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं० 7(2)/2005-हि०अ]

राजीव कुमार, संयुक्त सचिव

MINISTRY OF COMMUNICATION AND INFORMATION TECHNOLOGY

(Department of Electronics & Information Technology)

New Delhi, the 30th September, 2015

S.O. 1928.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the National Institute of Electronics and Information Technology (NIELIT) centre, an autonomous society of the Department of Electronics & Information Technology, located at C-134, PUNCOM Building Industrial Area, Phase-VIII, Sector-72, S.A.S. Nagar, Mohali, whereof more than 80% staff have acquired the working Knowledge of Hindi:

[No.7(2)/2005-H.S.]

RAJIV KUMAR, Jt.Secy.

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1929.—केंद्र सरकार, एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी विभाग के प्रशासनिक नियंत्रण के अंतर्गत आने वाले प्रगत संगणन विकास केन्द्र (सी-डैक) नामक स्वायत्त संस्था के पुणे विश्वविद्यालय परिसर, गणेशखिंड, पुणे स्थित कार्यालय, जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं० 7(2)/2005-हि०अ]

राजीव कुमार, संयुक्त सचिव

New Delhi, the 30th September, 2015

S.O. 1929.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the Centre for Development of Advanced Computing (C-DAC), an autonomous society under the administrative control of the Department of Electronics & Information Technology, located at Pune University Campus, Ganeshkhind, Pune, whereof more than 80% staff have acquired the working knowledge of Hindi.

[No.7 (2)/2005-H.S.]

RAJIV KUMAR, Jt.Secy.

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1930.—केंद्र सरकार, एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी विभाग के सम्बद्ध कार्यालय मानकीकरण परीक्षण तथा गुणवत्ता प्रमाणन निदेशालय के कृषि महाविद्यालय परिसर, शिवाजी नगर, पुणे स्थित अधीनस्थ कार्यालय, इलेक्ट्रॉनिकी परीक्षण तथा विकास केन्द्र, जिसके 80% से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं. 7(2)/2005-हि.अ.]

राजीव कुमार, संयुक्त सचिव

New Delhi, the 30th September, 2015

S.O. 1930.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the Electronics Test & Development Centre, a Subordinate Office of Standardization Testing & Quality Certification Directorate, an attached office of the Department of Electronics & Information Technology, located at Agriculture College Campus, Shivaji Nagar, Pune, whereof more than 80% staff have acquired the working knowledge of Hindi.

[No.7 (2)/2005-H.S.]

RAJIV KUMAR, Jt.Secy.

युवा कार्यक्रम और खेल मंत्रालय

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1931.—केन्द्रीय सरकार एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप नियम (4) के अनुसरण में युवा कार्यक्रम और खेल मंत्रालय के अधीनस्थ कार्यालय राष्ट्रीय सेवा योजना क्षेत्रीय निदेशालय, भोपाल (मध्य प्रदेश) जिसके 80% से अधिक कर्मचारीबुंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[मि. सं. 11011/2/2008-हि.ए.]

एस. एल. मीना, उप सचिव

MINISTRY OF YOUTH AFFAIRS AND SPORTS

New Delhi, the 5th October, 2015

S.O. 1931.—In pursuance of sub Rule (4) of Rule of 10 of Official Language (use for official purpose of the Union) Rule 1976, the Central Government hereby notifies National Service Scheme Regional Directorate, Bhopal (M.P.) a Subordinate Office of Ministry of Youth Affairs & Sports, whereof more than 80% staff have acquired working knowledge of Hindi.

[F.No.E-11011/2/2008-H.U.]

S.L. MEENA, Dy. Secy.

कोयला मंत्रालय

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1932.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 600(अ), तारीख 19 फरवरी, 2015 जो भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii), तारीख 23 फरवरी, 2015 में प्रकाशित की गई थी, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) और ऐसी भूमि में या उस पर के सभी अधिकार, उक्त अधिनियम की धारा 10 उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए हैं;

और केन्द्रीय सरकार का यह समाधान हो गया है, कि सेंट्रल कोलफील्ड्स लिमिटेड, रांची, झारखंड (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम, 1957 की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित भूमि में या उस पर के सभी अधिकार केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, तारीख 23 फरवरी, 2015 से निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए सरकारी कंपनी में निहित हो जाएंगे, अर्थात्:—

1. सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकार, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
2. सरकार कंपनी द्वारा शर्त (1) के अधीन, उक्त सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, उक्त सरकारी कंपनी द्वारा वहन किए जाएंगे और इसी प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में अपील आदि सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे;

3. सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमि में या उस पर के पूर्वोक्त अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;
4. सरकारी कंपनी के पास केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमियों में पूर्वोक्त अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
5. सरकारी कंपनी, ऐसे निदेशों और शर्तों का, पालन करेगी जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं।

[फा० सं० 43015/14/2012-पीआरआईडब्ल्यू-I]

सुजीत कुमार, अवर सचिव

MINISTRY OF COAL

New Delhi, the 5th October, 2015

S.O. 1932.—Whereas, on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 600 (E), dated the 19th February, 2015, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 23rd February, 2015, issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and all rights over the said lands described in the Schedule appended to the said notification (hereinafter referred to as the said land) are vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas, the Central Government is satisfied that the Central Coalfields Limited, Ranchi, Jharkhand (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the land and all rights over the said land so vested shall with effect from the 23rd February, 2015, instead of continuing to so vest in the Central Government shall, vest in the Government Company, subject to the following terms and conditions, namely:—

1. The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
2. A Tribunal shall be constituted under section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the said Government Company under conditions (1) and all expenditure incurred in connection with any such Tribunal and persons

appointed to assist the Tribunal shall be borne by the said Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in the said land, so vested, shall also be borne by the Government Company.

3. The Government Company shall indemnify the Central Government its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the aforesaid rights in the said land so vested;
4. The Government Company shall have no power to transfer the aforesaid rights in the said lands so vested, to any other persons without the prior approval of the Central Government; and
5. The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[F.No. 43015/14/2012-PRIW-I]

SUJEET KUMAR, Under Secy.

विद्युत मंत्रालय

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1933.—17.08.2006 को अधिसूचित मुख्य विद्युत निरीक्षक और विद्युत निरीक्षक की अर्हता, शक्ति और कार्य नियमावली, 2006 के साथ पठित विद्युत अधिनियम, 2003 (2003 का 36) की धारा 162 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्वारा श्री देवेन्द्र दत्त मिश्रा, मुख्य विद्युत अभियंता (आईआरएसईई) बीएमआरसीएल को इस अधिसूचना की तारीख से बैंगलोर मेट्रो रेल कारपोरेशन लिमिटेड में उनके कार्यकाल तक, उपर्युक्त नियम में उल्लिखित अर्हता और शर्त को पूरा करने के अधीन नियुक्त करते हैं। श्री देवेन्द्र दत्त मिश्रा को श्री बी० जी० माल्या, मुख्य विद्युत निरीक्षक बीएमआरसीएल के स्थान पर नियुक्त किया जाएगा।

उपर्युक्त अधिकारी समय-समय पर यथासंशोधित केन्द्रीय विद्युत प्राधिकरण (सुरक्षा और विद्युत आपूर्ति से संबंधित उपाय) विनियम, 2010 में दी गई प्रक्रिया के अनुसार, बीएमआरसीएल के अधिकार वाले क्षेत्रों में प्रचलनाधीन विद्युत रोलिंग स्टॉक के संबंध में अथवा बीएमआरसीएल के नियंत्रणाधीन/बीएमआरसीएल से संबद्ध सभी वैद्युत संस्थापनाओं के संबंध में अधिकारों का प्रयोग करेंगे और अपने-अपने कार्य निष्पादित करेंगे।

बीएमआरसीएल यह सुनिश्चित करेगा कि श्री देवेन्द्र दत्त मिश्रा बीएमआरसीएल में मुख्य विद्युत अभियंता (आईआरएसईई) के रूप में उन्हें सौंपे गये कार्यों को करने के संबंध में मुख्य वैद्युत निरीक्षक नहीं होंगे।

वैद्युत निरीक्षक के रूप में नियुक्त अधिकारी वह प्रशिक्षण लेंगे जिसे केन्द्र सरकार इस उद्देश्य के लिए आवश्यक समझे तथा ऐसा प्रशिक्षण सरकार की संतुष्टि के स्तर तक पूरा किया जाएगा।

[फा० सं० 42/3/2013-आर एण्ड आर]

ज्योति अरोड़ा, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 30th September, 2015

S.O. 1933.—In exercise of the powers conferred by sub-section (1) of Section 162 of the Electricity Act, 2003 (36 of 2003) read with Qualifications, Powers and Functions for Chief Electrical Inspector and Electrical Inspectors Rules, 2006 notified on 17.8.2006, the Central Government hereby appoints Sh. Devedra Dutta Mishra, Chief Electrical Engineer (IRSEE), BMRCL as Electrical Inspector for Bangalore Metro Rail Corporation Ltd., from the date of this Notification till his tenure in BMRCL, subject to fulfilment of the Qualification and Condition mentioned in the above Rule. Sh. Devendra Dutta Mishra will be appointed in place of Sh. B.G. Mallya, Chief Electrical Engineer, BMRCL.

The above mentioned officer shall exercise the powers and perform his functions in respect of electrical works,

electrical installations and electrical rolling stock in operation within the areas occupied by the BMRCL or in respect of works and all electrical installations under the control of BMRCL/belonging to BMRCL as per the procedure provided in Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulations, 2010, as amended from time to time.

BMRCL will ensure that Sh. Devendra Dutta Mishra will not be the Chief Electrical Inspector in respect of the work assigned to him as Chief Electrical Engineer (IRSEE) in BMRCL.

The person appointed as Electrical Inspector shall undergo such training as the Central Government may consider necessary for the purpose and such training shall be completed to the satisfaction of the Government.

[F.No. 42/3/2013-R&R]
JYOTIARORA, Jt. Secy.

नई दिल्ली, 30 सितंबर, 2015

का.आ. 1934.—17.08.2006 को अधिसूचित मुख्य वैद्युत निरीक्षक और विद्युत निरीक्षक की अर्हता, शक्ति और कार्य नियमावली, 2006 के साथ पठित विद्युत अधिनियम, 2003 (2003 का 36) की धारा 162 की उपधारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्वारा केंद्रीय विद्युत प्राधिकरण के निम्नलिखित अधिकारियों को इस अधिसूचना की तारीख से केंद्रीय विद्युत प्राधिकरण में उनके कार्यकाल तक, उपर्युक्त नियम में उल्लिखित अर्हता और शर्त को पूरा करने के अधीन केंद्रीय विद्युत प्राधिकरण में मुख्य विद्युत निरीक्षण/वैद्युत निरीक्षक के रूप में नियुक्त करती है:—

क्रम सं०	नाम	अर्हता	सीईए में पदनाम	के रूप में नियुक्त किया जाना है
1.	श्री गौतम राय*	बी०टेक० (इंजी०), (विद्युत)	मुख्य अभियंता	मुख्य विद्युत निरीक्षक
2.	श्रीमती मैरी फ्रांसिस	बी०एससी० टेक० (इंजी०), (विद्युत)	उप निदेशक	विद्युत निरीक्षक
3.	श्रीमती थॉमस के० चाको	बी०एससी० टेक० (इंजी०), (विद्युत)	उप निदेशक	विद्युत निरीक्षक

* श्री गौतम राय को श्री डी० के० जैन के स्थान पर मुख्य विद्युत निरीक्षक के रूप में नियुक्त किया जाता है।

उपर्युक्त अधिकारी समय-समय पर यथासंशोधित केंद्रीय प्राधिकरण (सुरक्षा और विद्युत आपूर्ति से संबंधित उपाय) विनियम, 2010 में दी गई प्रक्रिया के अनुसार, केंद्रीय विद्युत प्राधिकरण के अधिकार वाले क्षेत्रों में प्रचालनाधीन विद्युत रोलिंग स्टॉक के संबंध में अथवा केंद्रीय विद्युत प्राधिकरण के नियंत्रणाधीन/केंद्रीय विद्युत प्राधिकरण से सम्बद्ध सभी विद्युत संस्थापनाओं के संबंध में अधिकारों का प्रयोग करेंगे और अपने-अपने कार्य निष्पादित करेंगे।

केंद्रीय विद्युत प्राधिकरण यह सुनिश्चित करेगा कि उपरोक्त अधिकारी सीईए में मुख्य अभियंता/उप निदेशक के रूप में उन्हें सौंपे गये कार्यों को करने के संबंध में मुख्य विद्युत निरीक्षक/विद्युत निरीक्षक नहीं होंगे।

विद्युत निरीक्षक के रूप में नियुक्त अधिकारी वह प्रशिक्षण लेंगे जिसे केंद्र सरकार इस उद्देश्य के लिए आवश्यक समझे तथा ऐसा प्रशिक्षण सरकार की संतुष्टि के स्तर तक पूरा किया जाएगा।

[फा०सं०-42/3/2013-आरएण्डआर]
ज्योति अरोड़ा, संयुक्त सचिव

New Delhi, the 30th September, 2015

S.O. 1934.—In exercise of the powers conferred by sub-section (1) of Section 162 of the Electricity Act, 2003 (36 of 2003) read with Qualifications, Powers and Functions for Chief Electrical Inspector and Electrical Inspectors Rules, 2006 notified on 17.08.2006, the Central Government hereby appoints following officers of CEA as Chief Electrical Inspector/Electrical Inspector in CEA, from the date of this Notification till their tenure in CEA, subject to fulfilment of the qualification and Condition mentioned in the above Rule:

S. No.	Name	Qualification	Designation	Appointed as
1.	Sh. Goutam Roy*	B.Tech. (Engg.) (Electrical)	Chief Engineer	Chief Electrical Inspector
2.	Mrs. Mary Francis	B. Sc. (Engg.) (Electrical)	Deputy Director	Electrical Inspector
3.	Sh. Thomas K. Chacko	B. Sc. (Engg.) (Electrical)	Deputy Director	Electrical Inspector

*Sh. Goutam Roy is appointed as Chief Electrical Inspector in place of Sh. D.K. Jain

The above mentioned officers will exercise the powers and perform their respective functions in respect of electrical works, electrical installations and electrical rolling stock in operations within the areas occupied by the CEA or in respect of works and all electrical installations under the control of CEA/belonging to CEA as per the procedure provided in Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulations, 2010 as amended from time to time.

CEA will ensure that above officers will not be the Chief Electrical Inspector/Electrical Inspector in respect of the work assigned to him as Chief Engineer/Deputy Director in CEA.

The persons appointed as Electrical shall undergo such training as the Central Government may consider it necessary for the purpose and such training shall be completed to the satisfaction of the Government.

[F.No.-42/3/2013-R&R]
JYOTIARORA, Jt. Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 10 सितम्बर, 2015

का.आ. 1935.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिविशनल इंजीनियर टेलीकॉम, भोपाल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/42/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/09/2015 को प्राप्त हुआ था।

[सं एल-40012/21/96-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 10th September, 2015

S.O. 1935.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/42/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the industrial Dispute between the employers in relation to the management of the Divisional Engineer Telecom, Bhopal and their workman, which was received by the Central Government on 09/09/2015.

[No.L-40012/21/96-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/42/98

Shri Ramdas S/o Shri Gangaram,
Village Jargaon, Post Bhageh,
Tehsil Dabra,
Distt. Gwalior (MP)

...Workman

Versus

Divisional Engineer Telecom (RE),
Arera Colony,
Bhopal

...Management

AWARD

Passed on this 13th day of August, 2015

1. As per letter dated 23-2-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/21/96-IR(DU). The dispute under reference relates to:

"Whether the action of management of Divisional Engineer Telecom (RE) Bhopal in terminating the services of Shri Ramdas S/o Shri Gangaram w.e.f. 15-8-91 is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim AT Pages 2/1 to 2/3. The case of workman is that he was engaged on daily wages from 17-8-85 with 2nd party. He was working with devotion at Gwalior till 30-4-86. From 10-6-86, workman was engaged on daily wages at Bhopal. He was continuously working till 14-8-91. On 15-8-91, his services were orally discontinued. The oral termination is illegal. He was not given one months notice or one months pay in lieu of notice. He was not paid retrenchment compensation. Without issuing showcause notice, his services were terminated. That he had worked continuously more than 240 days. His termination is in violation of Section 25-F of ID Act. Other persons engaged after him are continued in employment in violation of Section 25-G of ID Act. For terminating services of workman, permission of

Government was not obtained. On such ground, workman is praying for his reinstatement with backwages.

3. 2nd party filed Written Statement at Pages 16/1 to 16/2 opposing claim of the workman. 2nd party raised preliminary objection that Railway electrification Project is under control of Director of Railway Electrification of office at Bhopal. Said office was established by Telecom department. After completion of its work in 1990, said office was closed. The record was destroyed after complying the rules. Any information about working of Ist party is not available. Claim of workman deserves to be rejected. 2nd party reiterates that record relating to the working of Ist party is not available. Compensation under ID Act was paid to the retrenched labours. Permission for retrenchment was taken from Competent Authority. Claim of workman is without any basis. It is barred by time limit. On such ground, 2nd party prays for answering reference in its favour.

4. Workman filed rejoinder reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---------------------|
| "(i) Whether the action of the Management of Divisional Engineer Telecom (RE) Bhopal in terminating the services of Shri Ramdas S/o Shri Gangaram <i>w.e.f.</i> 15-8-91 is legal and justified? | In Negative |
| (ii) If so, to what relief the workman is entitled to?" | As per final order. |

REASONS

6. Ist party is challenging termination of his service for violation of Section 25-G, H of ID Act. Workman filed affidavit of his evidence supporting his contentions in statement of claim. That he was working from 17-8-95 to 31-1-86 at Datia from 1-2-86 to 30-4-86, he was required to work at Gwalior laying the cables. From 10-6-86, he was engaged on daily wages at Bhopal. He was continuously working at Bhopal till 14-8-91. His services were orally discontinued from 15-8-91. That he was working with 2nd party for six years during each of the calendar year, he completed more than 240 days continuous service. The details of his working days are given in Para-4 of his affidavit. In his cross-examination, workman says on 17-8-85, he was engaged by Motilal Kushwaha. He was appointed at Datia where he worked for one year. He was not appointed by contractor. From Datia, he went to Bhopal for work. Before discontinuing his services, SDO had contacted JTO. He was orally terminated. Written order of termination was not given to him. He denies that appointment letter in writing was not given to him. That he had gone for work from

Datia to Bhopal, transfer order was not received. He was unable to tell whether PF was deducted from his wages. When he was transferred from Datia, said office was working. Workman in his further cross denies that he was working sometimes 8 days, 12 days, 15 days in a month. Document Exhibit W-1 was referred to workman. Secondly it was admitted in evidence. He denies that he had not worked 240 days in any of the year. Before his engagement, post was not advertised. Presently he is working in the agricultural land. In document Exhibit W-1, the working days of workman are shown more than 240 days during each of the years 17-8-85 to June 88. The evidence of workman is corroborated by document Exhibit W-1.

7. Management's witness Shri R.V. Chouhan filed affidavit supporting contentions of 2nd party in the Written Statement. That the work of electrification project was carried at different points. The office at Bhopal was closed in 1990. The documents related to the project was destroyed as per Rule-69 in Appendix-V. In his cross-examination, witness of management says he is working with 2nd party from April 84. He does not know the workman. He had seen his service record. Work was completed in 1990. Presently he is working in BSNL since 1-10-00. At that time option of employee working in Telecom Deptt. was called. The option was also called from casual employee working in Telecom department. Copy of rules about distribution of rules is produced. Management's witness has no personal knowledge. The document relating to the working of Ist party could not be produced as stated above. The evidence of workman is supported by document Exhibit W-1. Workman had completed 240 days continuous service during 1985 to 1988. Therefore I do not find reason to disbelieve of workman. The services of workman are discontinued without notice, no retrenchment compensation was paid. Though 2nd party in its Written Statement has contented that retrenchment compensation was paid under ID Act, any document in that regard are not produced by 2nd party. No document is also produced about permission of Competent Authority for retrenchment of employee is obtained. The contentions of 2nd party in that regard are not substantiated by documents. It is clear that services of workman are discontinued in violation of section 25-F of ID Act, therefore I record my finding in point No. 1 in Negative.

8. Point No. 2—termination of workman is found illegal for violation of Section 25-F of ID Act, question remains for consideration that workman is entitled for reinstatement with backwages. The evidence of management's witness that office of Railway Electrification project at Bhopal was closed in 1998 is not shattered in its cross-examination. Workman was engaged on daily wages. As per evidence in cross-examination of workman, the post was not advertised. Appointment letter in writing as not given to him. Copy of award in R/274/97 is produced. In said case, violation of

Section 25-G was also established. Workman has not disclosed names of any junior persons continued by 2nd party therefore reinstatement of Workman could not be possible. Considering nature of engagement of workman and period of his engagement, compensation Rs. One Lakh would be reasonable. Accordingly I record my finding in points No.2.

9. In the result, award is passed as under:—

- (1) The action of the management of Divisional Engineer Telecom (RE) Bhopal in terminating the services of Shri Ramdas S/o Shri Gangaram *w.e.f.* 15-8-91 is not proper and legal.
- (2) 2nd party is directed to pay Rs. One Lakh compensation to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. RATLE, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2015

का.आ. 1936.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रक्षा अनुसंधान एवं विकास संगठन, ग्वालियर एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. सीजीआईटी/एलसी/आर/70/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/09/2015 को प्राप्त हुआ था।

[सं. एल-14012/87/2001-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 29th September, 2015

S.O. 1936.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Case No. CGIT/LC/R/70/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Defence Research & Development Organisation, Gwalior & Others and their workman, which was received by the Central Government on 18/09/2015.

[No. L-14012/87/2001-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/70/2002

Shri Umesh Kumar,
S/o Shri Ramsewak,
R/o New Colony No. 1,
Qtr. No. 17,
Birla Nagar, Gwalior

...Workman

Versus

Director,
Defence Research & Development Organisation,
Gwalior.

M/S Sharma Construction,
Qr. No. 60, Line No. 14,
Birla Nagar,
Gwalior.

...Management

AWARD

Passed on this 1st day of September 2015

1. As per letter dated 26.4.02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-14012/87/2001-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Director, Defence Research & Development Establishment in terminating the services of Shri Umesh Kumar S/o Shri Ramsewak Paswan *w.e.f.* 28.3.96 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at pages 2/1 to 2/3. Case of workman is that 2nd Party No. 1 had issued letter dated 21.0.93 allowing 2nd Party No. 2 to engage contract labour. 2nd Party No. 3 was allowed contract of Rs. 20,000 as per order dated 1.2.93. 1st party was working on daily wages with 2nd Party No. 3 from December 1993 to 28.2.96. He was working continuously. His services were terminated without notice. List of daily wage employee was not displayed on notice board. Workman prays for setting aside order of his termination and reinstatement with backwages.

3. 2nd Party No. 1, 2 filed Written Statement at Pages 3/1 to 3/4 opposing claim of the workman. 2nd party submits that their establishment is engaged in field of Defence Research for Armed Forces. It is sovereign function. Provisions of ID Act are not applicable to their establishment. This Tribunal has no jurisdiction to decide reference. That in order to expedite the projects, engage workers for specific jobs through Private contractors. The work related to project is of perennial nature. The work is intermittent. When ever some work is mentioned intermittent work activities increased. On 21.10.93, 2nd Party No. 1, 2 awarded contract. M/S Sharma constructions and Government supply is 2nd Party No. 3 for carrying out

various type of jobs at Rs. 20,000 per month. Workman was engaged by 2nd party No. 3, 2nd Party No. 1, 2 were not supervising work of the labours engaged by contractor. Workman was not terminated by 2nd Party No. 1,2. The contractor had terminated services of workman, management has no control over him. On such ground, 2nd party prays reference be answered in its favour.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|--|
| "(i) Whether the action of the management of Director, Defence Research & Development Establishment in terminating the services of Shri Umesh Kumar S/o Shri Ramsewak Paswan. <i>w.e.f.</i> 28.3.96 is justified?" | 2nd Party No. 1, 2 not engaged or terminate the workman. |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

5. In his pleading and affidavit of evidence, workman says that he was engaged by contractor 2nd Party No. 3. the order of reference indicates that 2nd Party No. 3 is not party to the dispute. His name is not appearing in order of reference. From evidence and pleadings of workman, it is clear that the workman was not engaged or terminated by 2nd Party No. 1,2 management rather workman was engaged by construction contractor. He was not party to the reference. In statement of claim, his name is added by workman.

6. The evidence of management's witness Shri K. K. Soni is devoted on the point that establishment of 2nd party is discharging sovereign functions of the State. Contractor M/S Sharma Construction and Government supply was engaged on contract on 21.10.93. The nature of work assigned to the said contractor is not disclosed whether his evidence is also not clear, what kind of work, the work was carrying after his engagement by contractor the contentions of 2nd party that it is not covered as industry therefore cannot be upheld the evidence of management's witness is clear that workman was engaged by contractor. Copy of contract is produced by management's witness at Exhibit M-1. The record about payment of wages is produced at Exhibit M-2. The counter files are produced at Exhibit M-3/1 to 3/13. The management's witness denies that during 1993 to 1996, workman was working with management of 2nd Party No. 1, 2. Any other evidence is not produced by workman that he was working under 2nd party No. 1, 2 for more than 240 days working. 2nd Party No. 3 was not party to the reference.

7. Learned counsel for 2nd party Shri Chourasia incidently relies on ratio held in Case of Rajkumar versus Jalagaon Municipal Corporation reported in 2013 (1) SCC L&S-471. Their Lordship dealing with termination of service of casual labour, daily wager and judgment of Single Judge and Division Bench of High Court that appellants were temporarily appointed on daily wages as and when work was available and not posted on regular basis against any sanctioned post. Their Lordship held there is no reason and justification to interfere with the orders passed by the two courts refusing to set aside termination of appellants. In para-7 of the judgment, their Lordship considering promptness in approaching proper forum payment of Rs. 10,000 each of the appellants will not adequately compensate. The compensation Rs. 50,000 each was allowed.

Ratio in above cited case cannot be applied to present case as Ist Party workman was neither engaged or terminated by 2nd Party No. 1, 2. The workman was not engaged or terminated by 2nd Party, rather he was engaged or terminated by the contractor who is not party to the dispute under reference. Accordingly I record my finding in Pont No. 1.

8. In the result, award is passed as under:—

- (1) The workman was not engaged or terminated by 2nd Party No. 1,2. The contractor was not party to the reference.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2015

का.आ. 1937.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रक्षा अनुसंधान एवं विकास संगठन, ग्वालियर एवं अन्य के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं० सीजीआईटी/एलसी/आर/51/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/09/2015 को प्राप्त हुआ था।

[सं एल-14012/88/2001-आईआर(डीयू)]
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 29th September, 2015

S.O. 1937.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Case No. CGIT/LC/R/51/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Defence Research & Development

Organisation, Gwalior & Others and their workman, which was received by the Central Government on 18/09/2015.

[No. L-14012/88/2001-IR(DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/51/2002

Shri P. V. Sharma,
M/s. Sharma Constructions,
Qr. No. 60, Line No. 4,
Birla Nagar, Gwalior ...Workman

Versus

Director,
Defence Research & Development Organisation,
Gwalior

M/s. Sharma Constructions,
Qr. No. 60, Line No. 14,
Birla Nagar, ...Management
Gwalior

AWARD

Passed on this 1st day of September, 2015

1. As per letter dated 11.3.02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-14012/88/2001-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Director, Defence Research & Development Establishment in terminating the services of Shri Munnalal Prajapati S/o Shri Ramnandan Prajapati *w.e.f.* 28.3.96 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 2/1 to 2/3. Case of workman is that 2nd party No. 1 had issued letter dated 21.09.93 allowing 2nd party No. 2 to engage contract labour. 2nd party No. 3 was allowed contract of Rs. 20,000 as per order dated 1.2.93. Ist party was working on daily wages with 2nd party No. 3 from December, 1993 to 28.2.96. He was working continuously. His services were terminated without notice. List of daily wage employee was not displayed on notice board. Workman prays for setting aside order of his termination and reinstatement with backwages.

3. 2nd party No. 1, 2 filed Written Statement at Page 3/1 to 3/4 opposing claim of the workman. 2nd party submits that their establishment is engaged in field of Defence Research for Armed Forces. It is sovereign function.

Provisions of ID Act are not applicable to their establishment. This Tribunal has no jurisdiction to decide reference. That in order to expedite the projects, engage workers for specific jobs through Private contractors. The work related to project is of perennial nature. The work is intermittent. When ever some work is mentioned intermittent work activities increased. On 21.10.93, 2nd party No. 1, 2 awarded contract. M/s. Sharma constructions and Government supply is 2nd party No. 3 for carrying out various type of jobs at Rs. 20,000 per month. Workman was engaged by 2nd party No. 3. 2nd party No. 1, 2 were not supervising work of the labours engaged by contractor. Workman was not terminated by 2nd party No. 1, 2. The contractor had terminated services of workman. Management has no control over him. On such ground, 2nd party prays reference be answered in its favour.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---|
| (i) Whether the action of the management of Director, Defence Research & Development Establishment in terminating the services of Shri Munnalal Prajapati S/o Shri Ramnandan Prajapati <i>w.e.f.</i> 28.3.96 is justified? | 2nd party No. 1, 2 not engage or terminate the workman. |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

5. In his pleading and affidavit of evidence, workman says that he was engaged by contractor 2nd party No. 3. The order of reference indicates that 2nd party No. 3 is not party to the dispute. His name is not appearing in order of reference. From evidence and pleadings of workman, it is clear that the workman was not engaged or terminated by 2nd party No. 1, 2 management rather workman was engaged by construction contractor. He was not party to the reference. In statement of claim, his name is added by workman.

6. The evidence of management's witness Shri K.K. Soni is devoted on the point that establishment of 2nd party is discharging sovereign functions of the State. Contractor M/s. Sharma Construction and Government supply was engaged on contract on 21.10.93. The nature of work assigned to the said contractor is not disclosed whether his evidence is also not clear, what kind of work, the work was carrying after his engagement by contractor. The contentions of 2nd party that it is not covered as industry therefore cannot be upheld. The evidence of management's witness is clear that workman was engaged by contractor. Copy of contract is produced by management's witness at

Exhibit M-1. The record about payment of wages is produced at Exhibit M-2. The counter files are produced at Exhibit M-3/1 to 3/13. The management's witness denies that during 1993 to 1996, workman was working with management of 2nd party No. 1, 2. Any other evidence is not produced by workman that he was working under 2nd party No. 1, 2 for more than 240 days working. 2nd party No. 3 was not party to the reference.

7. Learned counsel for 2nd party Shri Chourasia incidently relies on ratio held in Case of Rajkumar *versus* Jalagaon Municipal Corporation reported in 2013(1) SCC L& S-471. Their Lordship dealing with termination of service of casual labour, daily wager and judgment of Single Judge and Division Bench of High Court that appellants were temporarily appointed on daily wages as and when work was available and not posted on regular basis against any sanctioned post. Their Lordship held there is no reason and justification to interfere with the orders passed by the two courts refusing to set aside termination of appellants. In para-7 of the judgment, their Lordship considering promptness in approaching proper forum payment of Rs. 10,000 each to the appellants will not adequately compensate. The compensation Rs. 50,000 each was allowed.

Ratio in above cited case cannot be applied to present case as 1st party workman was neither engaged or terminated by 2nd party No. 1, 2. The workman was not engaged or terminated by 2nd party, rather he was engaged or terminated by the contractor who is not party to the dispute under reference. Accordingly I record my finding in Point No. 1.

8. In the result, award is passed as under:—

- (1) The workman was not engaged or terminated by 2nd party No. 1, 2. The contractor was not party to the reference.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2015

का.आ. 1938.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आयुध कारखाना, इटारसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकार एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं० सीजीआईटी/एलसी/आर/01/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/09/2015 को प्राप्त हुआ था।

[सं० एल-14012/27/98-आईआर (डीयू)]

पी०के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 29th September, 2015

S.O. 1938.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (I.D. Case No. CGIT/LC/R/1/99) of the Central Government Industrial Tribunal cum-Labour-Court, Jabalpur now as shown in the Annexure in the Industrial Dispute Dispute between the employers in relation to the management of the Ordnance Factory, Itarsi and their workmen, which was received by the Central Government on 18/09/2015.

[No. L-14012/27/98-IR (DU)]

P.K. VENUGOPAL, Dest Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/1/99

Shri Ashok Kumar Sarathe,
Oppo. Raj Talkies,
PO Itarsi,
Distt. Hoshangabad

... Workman

Versus

General Manager,
Ordnance Factory,
Itarsi (MP)

... Management

AWARD

Passed on this 14th day of July, 2015

1. As per letter dated 30-10/13-11/98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per notification No. L-14012/27/98-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Ordnance Factory, Itarsi in:—

- (a) Stopping 2 increments for 2 years without cumulative effect on 12-5-86,
- (b) Stoppage of next increment for 2 years without cumulative effect on 19-7-89 and
- (c) in terminating Shri Ashok Kumar Sarathe is legal and justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. 1st party workman submitted statement of claim at Page 4/1 to 4/6. Case of 1st party is that Government has referred the dispute relating to the action of the management of Ordnance Factory, Itarsi in stopping two increments on 12.5.86 and 19.7.89 and legality of termination of workman. Workman was served with chargesheet dated 11.8.89. The charges against workman were that on 26.7.89 at 12.10 hours, while Shri B.K. Biswas Works Manager was coming from CWS Section, he was obstructed by the

applicant and one Shri Laxmi Narain Gahlot and beaten Mr. Biswas causing injuries to his left arm another charge alleged was of habitual offender punished earlier. Chargesheet was replied by workman on 24.9.90 denying the charges against him. He was called to file statement of his defence witness. Shri M. V. Murleedharan was appointed as Enquiry Officer. Similar enquiry was conducted against Laxmi Narain Gahlot by same Enquiry Officer. Workman did not examine themselves. The defence statement was submitted jointly by workman and Shri Gehlot.

3. Management examined Shri S.L. Gehlot, R.K. Verma on 13.2.90. Shri B.K. Biswas was examined on 4.4.90. Prior to DE against workman, preliminary enquiry was conducted, statement of Shri Gahlot, Ram Brij Prasad, Ram Kumar and Shyam Singh were recorded on 26.7.89. Joint enquiry was ordered on 4.10.89. Enquiry Officer submitted his report on 24.7.90. Its copy was supplied to workman on 3.8.90. Management ordered that report of Enquiry Officer shall be considered after receiving representation of the workman, 15 days time was granted for submitting Defence statement. Laxmi Gahlot submitted his representation on 15.9.90. Their representation was not taken into consideration. Management issued letter dated 20.9.90. 1st party workman submits that he was dismissed on 5.10.90. His appeal was dismissed on 6.11.90. It is reiterated that enquiry was not properly conducted. There was no eye witness to the incident of beating. Prosecution witness given statement. Enquiry Officer found him guilty. The finding of Enquiry Officer is perverse. Shri Biswas had also submitted report to save himself alleging workman had stopped him. It is an act unbecoming on party of the officer. The Disciplinary Authority accepted oral evidence of Shri Biswas. The defence evidence was not accepted. On such ground, it is submitted that the order of punishment of dismissal is illegal.

4. Management of 2nd party filed Written Statement at Page 6/1 to 6/4. Charges against workman was reproduced in Para 1 of Written Statement. 2nd party submits that workman was appointed as Darban on 20.3.80. He was transferred as unskilled labour *w.e.f.* 1.7.85 in Pay Scale 196-212. During the service tenure, workman committed several misconduct on different occasions. Disciplinary action were initiated against him as per CCS Rules. Punishment of stoppage of increments on 12.5.86, 19.7.89 were imposed after conducting enquiry. Punishment of dismissal was imposed after conducting enquiry as per CCS Rules. 2nd party separately submits that in 1986, workman was posted in transport section. On 29.3.86, he left his place of work and participated in illegal demonstration, slogan shouting and resorted to dharna in front of General Manager's Office on 29.3.86 from 12.15 hours. Chargesheet was issued to him under Rule 16. Gross misconduct of absenting him from place of work participated in demonstration, shouting slogans committed by workman

were an act of unbecoming of a Government servant. Reply submitted by workman on 17.4.76 was considered. The contention of workman was rejected. Penalty of withholding 3 increments without cumulative effect was imposed for 3 years. *W.r.t.* stoppage of two increments *vide* order dated 19.7.89, 2nd party submits that workman was posted at Steam services Maintenance Section. On 20.5.89, workman left place of his working alongwith Laxminarayan skilled labour. It was also reported that on 31.5.89, workman did not perform his assigned duty. Therefore chargesheet was issued to him under Rule 16 for gross misconduct issued from place of work during duty hours. Workman was given 10 days time to file reply. Workman did not submit any reply. Punishment of with holding two increments was imposed with cumulative effect.

5. *W.r.t* punishment of dismissal order dated 5.10.90 submits that chargesheet for gross misconduct assaulting Gazetted Officer, habitual offender was issued to workman and one Laxmi Gahlot. Workman denied charges against him. Common order was passed under Rule 18(1) & (2) CCS(CCA) Rules for conducting common enquiry. It is reiterated that rules were followed while conducting enquiry. Workman and Laxmi Narayan were guilty of the charges framed against him. Punishment of dismissal from service was imposed on him. The appeal filed by workman dated 6-11-90 was dismissed by speaking order dated 11-3-91. 2nd party submits that there is enough evidence on record supporting findings of Enquiry Officer. No illegality is committed while imposing the punishment. Workman filed OA No. 246/92 before CAT, Jabalpur. 2nd party, submits that if enquiry is found vitiated, 2nd party be permitted to lead evidence to prove misconduct against workman. 2nd party reiterated that punishment of dismissal imposed against workman is legal. As per order dated 26-2-2012, enquiry is found illegal. Management was permitted to prove misconduct adducing evidence.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|----------------|
| (i) Whether the action of the management of Ordnance Factory, Itarsi in Stopping 2 increments for 2 years without cumulative effect on 12-5-86 is proper and legal? | In Affirmative |
| (ii) Whether the action of the management of Ordnance Factory, Itarsi in Stopping of next increment for 2 years without cumulative effect on 19-7-89 is proper and legal? | In Affirmative |
| (iii) Whether the action of the management of Ordnance Factory, Itarsi in terminating Shri Ashok Kumar Sarathe is proper and legal? | In Negative |

- (iv) If not, what relief the workman is entitled to?" As per final order.

REASONS

7. Enquiry conducted against workman is found illegal as per order dated 26-6-2012. The terms of reference withholding two increments of workman as per order dated 12-5-86 & 19-7-89. The reference dispute is relating to those punishment is referred as per order dated 30-10-98 almost 12-9 years. Enquiry conducted against workman held illegal relates to punishment of dismissal imposed against workman. Order dated 26-6-2012 does not reflect detailed reasons of enquiry. Those punishment were found illegal as per Written statement filed by 2nd party. To chargesheet issued to workman, reply given by management was found satisfactory. Punishment of withholding increments was imposed. Dispute is raised after 12-9 years. Considering the delay, the dispute is raised, the dispute *w.r.t.* punishment of withholding two increments *vide* order dated 12-5-86, 19-7-89 would not be tenable. Legal position rather settled that the dispute referred after period of 7 years are not tenable. After finding of my predecessor, the enquiry conducted against workman was found illegal, 2nd party was permitted to prove misconduct in Court.

8. Management filed evidence of witness Shri Hemant Kumar Paikra. His affidavit is devoted on the point of conducting enquiry against workman on complaint of Shri B.K. Biswas Works Manager who was Group A Gazetted Officer. In para 5.1 of his affidavit, management's witness has narrated the workman and other employees Laxminarayan were sending at the corner of the building of said section obstructed him at that place. When the officer enquired about the cause of obstruction, Shri Laxmi Narayan told him in Hindi "Tumse aur kya bolna" and both of them started beating the officer with their hands, the officer had caught hold Shri Laxmi Narayan and shouted for help. On his calling, when staff members of CW section came out, the workman twisted the hands of the officer and got his accomplice released. The officer had suffered injury and he submitted a complaint on that day itself. The complaint dated 26-7-89 alongwith statements dated 26-7-89 of witnesses are enclosed. Since the Officer had suffered injury due to assault, he was sent to Ordnance Factory, Itarsi Hospital for medical examination and treatment. His affidavit is further devoted in Para 5.3 that documents available on record, workman was habitual of committing misconduct while on duty. Punishment was imposed. His affidavit is further devoted on point of imposing punishment of withholding two increments. Order No. 1258 for misconduct of workman absenting from duty and missing from place of work. The affidavit of management's witness does not disclose that he was witness to the incident, what was his source of knowledge of the incident. It also not disclosed. In his cross-examination, management's witness says he was working in Ordnance

Factory since 2007. He has no personal knowledge of chargesheet issued to workman. He admits that two increments of workman *w.r.t.* charge of unauthorized absence. He doesnot know whether the workman was active Union leader or workman was taking dispute of workers to the management. Management's witness claims ignorance whether management was annoyed with the workman. The management's witness admits that again two increments of workman were with held for charge of missing from the place of work. He claims ignorance whether before imposing punishment, enquiry was conducted. That his affidavit is based on documents. The zerox copy of record are filed at R/7, R/8 the chargesheet issued on 11-8-89. The complainant had not given evidence in DE in his presence. Once DE conducted against workman is found vitiated, evidence recorded in Enquiry Proceedings cannot be considered in support of charge.

9. The evidence of workman on the point that he was wrongly involved in the case by Shri B.K. Biswas, Work Manager. On 26-7-89, he attended his duty. He had not brought his tiffin therefore he had gone to C.W. Section. He asked Aziz Khan to bring his tiffin. However Aziz Khan did not bring his tiffin for want of time and therefore he was going out for taking lunch. His affidavit is devoted on the point that there was old dispute between Gehlot, co-worker and Works Manager. He was also implicated in the matter. The management failed to cross-examine the workman. His evidence remained unchallenged. The evidence of management's witness is not disclosing whether he was dye witness of the incident, what was source of his knowledge about recording of statement of witnesses. The evidence of management's witness is not based on his personal knowledge about incident of beating Works Manager, Shri B.K. Biswas by workman. The evidence of management's witness cannot prove charge No. 3 against workman. The evidence of workman about said incident remain unchallenged and I do not find any reason to discard evidence of workman.

10. As stated above, the punishment of withholding two increments of workman was imposed on 12-5-86 and 19-7-89. The dispute *w.r.t.* said punishment is referred along with the withheld charge for which the workman was dismissed from service. The dispute raised *w.r.t.* those punishments after 9-12 years is belated. Therefore action of the management withholding increment by those orders cannot be interviewed. So far as punishment of dismissal imposed against workman after enquiry, enquiry is vitiated and evidence of management's witness does not show source of his knowledge about his evidence of the incident. His affidavit does not disclose whether he is witness to the incident whether his affidavit is based on the documents. But since the enquiry is vitiated, evidence in Enquiry Proceedings cannot be considered. The charge about assaulting Shri B.K. Biswas by workman is not proved. The action of the management in imposing punishment of

dismissal cannot be sustained. It is illegal. Accordingly I record my finding in Point No. 1.

11. In view of my finding in Point No. 1 charge *w.r.t.* assaulting and inflicting injury by workman on Works Manager, Shri B.K. Biswas is not proved. The note of argument submitted by management counsel relates to course of dispute and enquiry conducted against workman imposing punishment of dismissal. The order dated 26-6-2012 also shows that the management has not adduced evidence. The original Enquiry Proceedings were not produced. Management's witness is not cross-examined. The punishment of dismissal imposed on workman cannot be sustained. Therefore punishment of dismissal imposed on workman deserves to be set-aside. Workman in his affidavit of evidence has stated that after dismissal from service, he could not get other job despite of repeated efforts made by him. His wife is doing work of cleaning utensil of other house. He is unemployed. His evidence remained unchallenged. Management has not adduced any evidence that workman was in gainful employment after dismissal from his service. Considering the evidence on record and charge of assault and inflicting injury is not proved, the workman is entitled for reinstatement with backwages. Accordingly I record my finding in Point No. 2.

12. In the result, award is passed as under:—

- (1) The action of the management imposing punishment of dismissal workman is illegal. The punishment of Stopping 2 increments for 2 years without cumulative effect *vide* order dated 12-5-86 & 19-7-89 cannot be said illegal as dispute raised is highly belated.
- (2) The order of dismissal of workman is set-aside.
- (3) 2nd party is directed to reinstate workman with continuity of service with full backwages
- (4) 2nd party shall pay cost of Rs. 3000/- to the workman.

R.B. PATLE, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2015

का.आ. 1939.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पोस्ट ऑफिस गुना डिबिजन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जबलपुर के पंचाट (संदर्भ सं० सीजीआईटी/एलसी/आर/107/00) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/09/2015 को प्राप्त हुआ था।

[सं० एल-40012/16/2000-आईआर(डीयू)]
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 29th September, 2015

S.O. 1939.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Case No. CGIT/LC/R/107/00) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Post Office, Guna Division and their workman, which received by the Central Government on 18/09/2015.

[No. L-40012/16/2000-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/107/00

Shri Ajaj Ahmed
S/o Shahjad Ahmed,
R/o Bahadurpur,
Tehsil Mungavali,
Guna

.... Workman

Versus

Superintendent,
Post, Office, Guna Division,
Guna

.....Management

AWARD

Passed on this 2nd day of September, 2015

1. As per letter dated 21-6-00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-40012/16/2000-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Superintendent of Post Office in terminating the services of Shri Ajaj Ahmed S/o Shahjad Ahmed *w.e.f.* 22-9-97 is justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 8/1 to 8/4. Case of workman is that he was appointed as postman on 16-3-78. His services were illegally terminated on 22-9-97. That enquiry conducted against him is illegal. The order of his termination is also illegal. Principles of natural justice were not followed. He was not supplied documents of preliminary enquiry and imposed documents in enquiry. He was not allowed Defence Assistant by Enquiry Officer. Shri S.P. Srivastava, Suptd. at Puna was appointed as Enquiry Officer in violation of Discipline

Appeal rules. He was not paid subsistence allowance during suspension period. He was not allowed opportunity to cross-examine management's witnesses. The findings of Enquiry Officer are perverse. After termination of his services, he is unemployed. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 10/1 to 10/5 opposing claim of the workman. 2nd party submits that chargesheet was issued to workman for misconduct on 23-1-96. Enquiry Officer was appointed to Shri A. K. Yadav, Asstt. Suptd., Guna. Shri S.P. Srivastava Suptd. At Guna was appointed as Presenting Officer. Shri R.K. Soni was Defence Asstt. for workman. He had taken inspection of documents. Enquiry was conducted on various dates. The witnesses of management were present for cross-examination. The workman admitted the charges against him and declined to cross-examine management's witnesses. The enquiry is conducted properly. Workman was allowed opportunity for his defence. Considering report of Enquiry Officer, charges against workman were proved. Punishment of dismissal was imposed. The appeal preferred by workman challenging his dismissal was dismissed. 2nd party reiterates that workman was allowed opportunity for his defence. 2nd party submits that reference be answered in its favour.

4. Enquiry conducted against workman is found legal as per order dated 29-11-2013.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded each of them for the reasons be below:—

- | | |
|--|---------------------|
| (i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) Whether the punishment of dismissal imposed against workman is proper and legal? | In Negative |
| (iii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. The chargesheet was issued to Ist party workman. The misconduct alleged against him is workman while working as EPMC/AA at Bhadurpur, Mungavali on 17-12-94, the bag sent from Accounts Officer Mungavali for branch Bauro was received by workman in proper condition. Said bag received in Bahadurpur Core branch was found its seal missing when it was opened in presence of Ram Narayan Sharma and Kailash Giri. As enquiry conducted against workman is found proper and legal, the evidence in Enquiry Proceedings needs to be considered for deciding whether misconduct alleged against workman

is proved. The documents in Enquiry Proceedings at Page 10/12 shows that on 13-1-97, when enquiry was fixed, CSE received chargesheet. He denied charges against him the enquiry was fixed on 5-2-97. Documents were supplied to workman. The enquiry was fixed on 30-4-97. The witnesses of management were present on that day. Workman submitted his submissions in writing admitting charges against him. Therefore management's witnesses were not examined. When workman admitted charges against him, infact other evidence is required to prove the misconduct in view of Section 58 of Evidence Act. therefore I record my finding in Point No. 1 in Affirmative.

7. Point No. 2. In view of my finding in Point No. 1 misconduct alleged against workman that postal bag handed over to workman on 17-2-94 was delivered at EPM Bahadurpur, its seal was found missing. There is no evidence in the enquiry that any kind of articles were missing from the postal bag. Merely as the seal on postal bag was found missing proved against workman, punishment of dismissal imposed against workman appears highly disproportionate.

8. The citation are submitted in Case of J.H. Patel *Versus* Nuboard Mfg Co. Ltd reported in 2014 LAB.I.C. 1278.. ratio held in the case relates to evidence not discussed by Labour Court to reach to the conclusion that misconduct of workman was proved. The findings of Labour Court that punishment proved by management was liable to be setaside.

In present case, workman admitted charges alleged against him. Though the management's witnesses were present, they were not examined. The ratio held in above case cannot be applied to case at hand.

Next reliance is placed in case of K. Kalirajan and Presiding Officer, CGIT-cum-labour Court and another reported in 2013 (136) FLR-384. In above cited case, out of 5 charges, 4 were not proved against petitioner. He was dismissed by Disciplinary Authority Industrial Tribunal found only one and first charge proved. Other charges are not proved. The petitioner had worked for more than 15 years and had no prior record of any misnomer, their Lordship held therefore CGIT ought to have exercised its discretion under Section 11-A of Act. The award was set aside and reinstatement with 50% backwages was allowed.

The facts of present case are not comparable as workman has admitted charge against him. In view of Section 58 of Evidence Act, no further evidence was required to be recorded in the enquiry. However the charge of misconduct alleged workman is seal on the postal bag found missing. When there is no evidence about missing of any postal articles, the gravity of misconduct proved against workman cannot be said serious. Therefore punishment of dismissal imposed against workman is excessive and disproportionate. Considering workman had completed

19 years service without any adverse record, the dismissal of workman deserves to be set aside. The age of workman is shown 55 years in affidavit of evidence filed on 2-12-09. The workman may have attained the age of superannuation, therefore reinstatement is not possible. Considering facts of the case, in my considered view, compensation Rs. 3,00,000 would be appropriate relief.

9. In the result, award is passed as under:—

- (1) The action of the management of Superintendent of Post Office in terminating the services of Shri Ajaj Ahmed S/o Shahjad Ahmed *w.e.f.* 22-9-97 is not proper and legal.
- (2) 2nd party management is directed to pay compensation Rs. 3,00,000 to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2015

का.आ. 1940.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ दूरसंचार के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 98/00) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/09/2015 को प्राप्त हुआ था।

[सं एल-40012/81/2000-आई आर (डीयू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 29th September, 2015

S.O. 1940.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. Case No. CGIT/LC/R/98/00) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Telecommunication and their workman, which was received by the Central Government on 18/09/2015.

[No. L-40012/81/2000-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/98/00

Shri Mahesh Kumar Mavare,
S/o G. Mavare
R/o Bhopal Road Narsingarh,
Nr. Chanak Talkies, Tehsil Narsingarh,
Rajgarh (MP)

...Workman

Versus

Chief General Manager,
Deptt. of Telecommunication,
Hoshangabad Road,
MP Circle, Bhopal

Telecom District Engineer,
Rajgarh, At Biaora,
Rajgarh (MP)

...Management

AWARD

Passed on this 27th day of August, 2015

1. As per letter dated 31-5-00 by Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-40012/81/2000-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Chief General Manager, Telecom in terminating the services of Shri Mahesh Kumar Navare S/o Shri Gourdhanlal Mavare *w.e.f.* January 1997 is justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Case of 1st party workman is that he was initially appointed in 1991 as casual labour in Telecom Department, Narsingarh, Rajgarh District. He continuously worked till 1996 without any break. He was appointed on permanent vacant post. He completed more than 240 days continuous service in January 1997. His services were terminated without following legal procedure. Action of management terminating his service is by victimization. Instead of regularizing the workman was terminated in violation of Section 25-F of ID Act is illegal. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 5/1 to 5/2 opposing claim of the workman. 2nd party submits that workman was never engaged by it. Claim of workman for regularisation is baseless, fabricated. 2nd party not violated any provisions of ID Act. Workman had not completed 240 days service in any year. 2nd party prays reference be answered in its favour.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of the management of Chief General Manager, Telecom in terminating the services of Shri Mahesh Kumar Navare S/o Shri Gourdhanlal Navare *w.e.f.* January 1997 is justified? In Affirmative
- (ii) If not, what relief the workman is entitled to?" Workman is not entitled to any relief.

REASONS

5. Though workman challenged termination of his service by raising dispute, statement of claim is filed on its behalf. Workman failed to adduce evidence in support of his claim. Evidence of workman is closed on 13-11-2013. Claim of workman is not supported by any evidence.

6. Management's witness Shri Ranjani Khan filed affidavit of his evidence. The witness denied that workman completed 240 days continuous service. In his cross-examination, management's witness says any vouchers regarding working of 1st party is not produced. Witness says workman had not done any work in the establishment of 2nd party. He has denied suggestion that workman worked for 2-3 years. As claim of workman is not supported by evidence, I record my finding in Point No. 1 in Affirmative.

7. In the result, award is passed as under:—

- (1) The action of the management of Chief General Manager, Telecom in terminating the services of Shri Mahesh Kumar Navare S/o Shri Gourdhanlal Navare *w.e.f.* January 1997 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer
नई दिल्ली, 29 सितम्बर, 2015

का.आ. 1941.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरदर्शन केन्द्र, जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के पंचाट (संदर्भ सं० 62/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/09/2015 को प्राप्त हुआ था।

[सं० एल - 42011/28/2006-आई आर (डीयू)]
पी०के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 29th September, 2015

S.O. 1941.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 62/2006) of the Central Government Industrial Tribunal Cum Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute

between the employers in relation to the management of the Doordarshan Kendra and their workman, Which was received by the Central Government on 18/09/2015.

[No. L-42011/28/2006-IR (DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR**

BHARAT PANDEY
PRESIDING OFFICER

I.D. 62/2006

Reference No. L-42011/28/2006-IR(DU)

Dated: 20.10.2006

Shri Nanak Chand
S/o Shri Nand Ram
1/916, Bhim Basti,
Jhajjar Road, Rewari-123401.

V/s

Director,
Doordarshan Kendra,
Near Jhalana Doongri,
Jaipur-O.

AWARD

4.8.2015

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2 (A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:—

“Whether the demand of the All India Trade Union congress for placing Shri Nanak Chand, Floor Assistant at serial seven (7) in the seniority list of Floor Assistants by the Director, doordarshan Kendra, Jaipur is legal & justified? If yes, to what relief the workman is entitled to?”

2. According to statement of claim submitted through General Secretary of the Union applicant Sh. Nanak Chand had submitted dispute regarding regularisation & seniority before the CGIT, Jaipur in which award was passed on 10.11.2004 in favour of applicant. It has been further alleged that the opposite party employer has made Casual Floor Assistants as permanent whereas applicant being a temporary floor assistant is entitled to be made permanent first before the casual floor assistants. Due to non-compliance of award dated 10.11.2004 whereupon seniority list was to be amended & due to non-regularisation of the applicant he again raised dispute before the conciliation officer which resulted in failure. After receipt of failure report

Labour Ministry has made a reference for adjudication as mentioned above.

3. It has been further alleged that at the time of commencement of studio of Doordarshan, Jaipur applicant was appointed after interview & training as floor assistant on 17.12.1987 against created post of permanent floor assistants. Annexure-1 to 4 to the statement of claim are letter for interview, list of successful candidates, information about training & first payment slip respectively. It has been accepted by Doordarshan that the applicant worked from the time of commencement of studio in 1988 till November, 1994 from the time of employment against created posts till the time of their regularisation. It has been further alleged by the applicant that he falls within the category of temporary employee, hence, he is entitled to be regularised prior to casually employed workmen but casual employees were made permanent which resulted into injustice to the applicant because he was entitled to be regularised prior to the regularisation of casual employees. Further, applicant has to say that in 1994 permanent posts were filled with a panel of casual employees & instead of regularising the applicant temporary work was also seized. At the time of appointment applicant was qualified & was within the age group of employment but he has attained the age of 48 years till now & there has been only assurance that he will be regularised. The applicant was at the serial no. 23 amongst qualified 30 candidates. It has been further alleged that the opposite party employer *vide* letter dated 22.7.89 Annex-5 intimated the persons absent that if they want to work they should contact the office of the employer otherwise their name shall be struck down from the list. According to number of available posts at Jaipur Doordarshan, panel review after every two year & looking into the un-interestedness of the persons, name of those employees should have been struck down from the list who were not taking interest in the work. After completion of interview & declaration of list for trainees Sh. Madhusudan Nag at serial no. 2, Ramkaran Meena at serial no. 6, Sh. Dinesh Singh Rawat at serial no. 8, Sh. Ramkalyan Meena at serial no. 9, Sh. Ajay Kumar Sharma at serial no. 10, Sh. Goverdhan Lal Meena at serial no. 11, Sh. Rajesh Kumar Korapal at serial no. 15, Sh. Indraj Verma at serial no. 16, Sh. Bhagat Singh at serial no. 19, Sh. Harischandra Pathak at serial no. 20, name illegible at serial no. 21 & Sh. Akhilesh Kumar Bhatnagar at serial no. 22 are such persons who did not require employment as they had already deserted the workplace earlier. These persons had not returned back to work even after proceeding of Pahara 5-A twice. It has been further alleged that person at serial no. 3 Sh. Ramavatar Gothwal & Sh. Munnawar Khan at serial no. 4 are working as permanent employee at Jaipur Kendra. Sh. Mohammad Arif had become permanent employee at CPC Studio Delhi who died subsequently in road traffic accident. After removal of seniority at serial no. 2 to 4, 6, 8, 9, 10, 11, 15 to 16, 20, 21 &

22 the seniority of the applicant comes out to be at serial no. 7. At the time of filling the post permanently only 14 persons were working wherein the position of the applicant was at serial no. 7 hence, assessment by employer of the position of the applicant at serial no. 7 is wrong & consequently the prepared list is also wrong. Such list was not produced by employer before the conciliation officer & before the CGIT in prolonged litigation.

4. In award dated 10.11.2000 by CGIT, Annex-6 to the petition, seniority of the applicant shown at serial no. 30 was held to be unbelievable & seniority shown by the applicant was held to be correct & accordingly it has been held that benefit to the applicant should be given. At the time to joining the service applicant was having all the eligibility for employment including age. The applicant has worked since creation of the post till the posts were filled up but the applicant was misguided by the employer on false assurance of regularisation. The applicant has attained the age of 48 & unable to bear the cost of litigation beside other responsibilities. Applicant is unaware as to how long he has to wait further. He is also unable to engage a counsel, hence, he has prayed for speedy justice. The applicant has given consent in writing to employ him as Floor Assistant at any Doordarshan Kendra of the country or at Doordarshan Kendra, Jaipur on like post & pay which is Annex-8 to the statement of claim.

5. The applicant has further alleged that from the facts narrated above it is clear that according to original seniority the applicant should have been regularised in the year 1994 & thus he has remained deprived to regularisation. It has been prayed that applicant be declared regular along with employees regularised in the year 1994 & consequently he be awarded with benefits relating to pay, allowances & annual increments along with compensation on account of mental pain & cost of litigation.

6. In para wise reply to the statement of claim statement of para 1, 2, 3, 4, 5, 6, 8, 9 has been alleged to be wrong & denied. Against para 7 it has been said that statement is related to the document hence, the statement is undisputed. In reply to para 7 of the statement of claim it has been alleged that by working as Floor Assistant on any Doordarshan Kendra or by working at Jaipur Kendra on like post with like pay does not confer right of regularisation in favour of applicant. It has been further alleged that his regularisation can be considered only on availability of post under scheme of regularisation.

7. In additional reply it has been alleged in para 4 in reply to the statement of claim that applicant was engaged for the work as casual Floor Assistant on contract basis & he was engaged on the work only for 10 days in a month & this point has been clearly indicated by this tribunal in award dated 10.11.2000 while answering issue no. 1. The applicant has worked between 21.5.88 to 30.7.94 on casual & rotational basis, hence, statement of the applicant is

wrong & baseless that he was engaged as temporary Floor Assistant against permanent post of Floor Assistant.

8. It has been further alleged that applicant has worked between 1988 to 1994 as casual artist on contract basis & in the above mentioned period according to requirement he was given work for only 10 days in a month on rotational basis & the applicant has never worked during above mentioned period for a period of 120 days. Applicant was never engaged on temporary basis & he was engaged only on contract as casual artist according to need. It has been further alleged that according to scheme of regularisation dated 9.6.92 applicant is ineligible for regularisation because he has not worked in any calendar year for 120 days. The applicant is eligible for regularisation according to scheme of regularisation dated 17.3.94 but according to seniority list prepared by non-applicant name of the applicant appears at serial no. 30, hence, he can be considered for regularisation only when vacant posts are created. No one junior to the applicant has ever been regularised till date. Accordingly, the allegation of the applicant is purely baseless that he has been kept on assurance since past 12 years. The seniority list for regularisation has been attached as Ex-R- 1 to the reply.

9. In reply to para 5 of the statement of claim it has been alleged that whatever fact has been alleged by the applicant in para 5 to the statement of claim they are related to a list which was prepared by non-applicant after interview to engage the artists on contract according to need & this prepared list after interview has no connection with the list relating to regularisation. It has been further alleged that according to scheme of regularisation seniority list of Floor Assistant & other artists have been prepared by non-applicant after considering various points of the scheme & the applicant name falls against serial no. 30 of the list. Under scheme of regularisation applicant can be considered for regularisation only according to seniority list as indicated above & on the availability of the post, as at present there is no vacant post consideration for regularisation of the applicant is not possible. It has been further alleged that it is relevant to make it clear that no casual artist junior to the applicant has been regularised till date & the list relating to regularisation & the list relating to the persons who have qualified in interview are two different lists.

10. It has been further alleged against para 6 of statement of claim that in award dated 10.11.2000 decision regarding seniority of the applicant was not based on merit because persons from serial no. 7 to 29 were not party to the claim before the tribunal & it was held by the tribunal that the applicant could raise the issue of seniority at proper stage. The applicant has not impleaded those persons as party to the present claim over & above whom he wants to be placed in seniority list & according to principal of natural justice those persons are necessary parties to the claim.

11. In reply to para 8 to the statement of claim it has been alleged that applicant never worked in any calendar year for 120 days hence, he is not eligible for regularisation according to scheme of regularisation dated 9.6.92. According to revised scheme of regularisation dated 17.3.94 on creation of post for regularisation applicant may be considered according to seniority for regularisation. The statement of the applicant is wrong that he has worked for 120 days in calendar year ending on 31.3.92. The statement of claim of the applicant is fit to be rejected on the basis of reply to the statement of claim.

12. Before the para wise commencement of reply to the statement of claim three preliminary objections have been raised by non-applicant which are as under:—

A. There is difference between reliefs claimed by the applicant in statement of claim & point of reference made by the Ministry for adjudication. The tribunal is devoid of jurisdiction, hence, prayer for relief is liable to be rejected.

B. In award dated 17.11.2002 passed by CGIT Cum Labour Court, Jaipur dispute on the point of seniority of the applicant was not adjudicated because applicant had not impleaded the persons from serial no. 7 to 29 of the seniority list. In the present statement of claim also those persons have not been impleaded hence, statement of claim is liable to be rejected.

C. The applicant had worked on contract basis as casual Floor Assistant between 1988 to 1994 & he was engaged according to need for a period of only 10 days in a month. According to judgement of Constitution Bench of Hon'ble Supreme Court in Secretary, State of Karnataka & others V/s Uma Devi (3) & others, (2006) 4 SCC page 1 applicant has no right of regularisation. It has been held by Hon'ble Supreme Court in above judgement that regularisation of casual & temporary employees is completely against the provision of Indian Constitution. The view expressed by Constitution Bench of Hon'ble Supreme Court is as under:—

"Merely because a temporary employee or a casual worked continue for a time beyond to term of his appointment, he would not be entitled to be absorbed in regular service or made permanent. And further held that the decisions of the Supreme Court running counter to or containing directions counter to this principle will stand denuded of their status as precedent."

13. The applicant has filed rejoinder on 23.11.10 in which points raised in statement of claim has been reiterated.

14. After filing of documentary evidence from both the sides on 13.8.2012 applicant filed his affidavit in evidence & case was fixed on 31.10.2012 for cross examination of the applicant by opposite party. For various reasons given in order-sheets of various dates applicant remained un-cross examined till 14.7.2015. On 14.7.2015 an application was

moved by the applicant in his individual capacity to withdraw the case but the application of withdrawal was not moved by General Secretary of the Union who is applicant in the statement of claim. The applicant moved application of withdrawal on account of his posting in Agartala but application of withdrawal did not accompany the letter appointment. Next date 4.8.2015 was fixed with direction to file the appointment letter. On 28.7.2015 applicant further moved an application along with photocopy of offer of appointment dated 21.7.2015 to the post of Floor Assistant at DDK, Agartala. On 28.7.2015 it was ordered that application be kept on record to be placed on 4.8.2015 & copy of the application be given to opposite party.

15. On 4.8.2015 application was moved for withdrawal by General Secretary of the Union along with photocopy of offer of appointment dated 21.7.2015. Both the parties to the case were heard on application of withdrawal. The application of withdrawal which has been made part of award read as under:—

संलग्नक-1

श्रीमान प्रिसाईडिंग ऑफिसर
सेन्ट्रल गवर्नमेंट ट्रिब्यूनल-कम-लेबर कोर्ट
सी०जी०ओ० कॉम्प्लेक्स
10 विद्याधर नगर-जयपुर-302109

दिनांक 04.08.2015

विषय: केस संख्या 62/2006 नानक चन्द बनाम दूरदर्शन केन्द्र जयपुर व अन्य वापस लेने हेतु।

संदर्भ:- 14/7/2015 को दिये गये केस वापस लेने हेतु प्रार्थना पत्र के संदर्भ में।

मान्यवर,

उपरोक्त संदर्भ में निवेदन है कि श्री नानक चन्द को पत्र क्र० 16/2015/SI(A) filed No. 31/49/2011-S1A dt. 6/8 May 2015 एवं आदेश सं० 19/2015 S1 (A) of even file dt. 03.06.15 के अनुसार नियमितकरण अगरतला दूरदर्शन केन्द्र पर किया जा रहा है। इसके संदर्भ में नानक चन्द को दूरदर्शन केन्द्र अगरतला से ऑफर लेटर नं० AGT/DDK/1(3)2015-16/6725 दिनांक 21.07.2015 का मिल चुका है। जिसकी प्रतियां संलग्न हैं।

अब चूंकि कोई वाद शेष नहीं रह जाता अतः नियमितकरण के केस को वापस लेते हैं।

भवदीय
हस्ताक्षर अपठनीय
(डी० के० छंगाणी)
महासचिव

16. Following order was passed on the application of withdrawal moved by the applicant which reads as under:—

04.08.2015 पुकार की गयी। याची नानक चन्द व्यक्तिगत रूप से उपस्थित है। विपक्ष की तरफ से श्री मुकेश मीना एडवोकेट उपस्थित है।

याची ने अपरान्ह में 1650 बजे आवेदन श्री डी० के० छंगाणी, महासचिव एवं आवेदक की तरफ से प्रस्तुत की जिसमें याचिका, जो श्री नानक चन्द की तरफ से महासचिव द्वारा प्रस्तुत की गयी है उसे वापस लेने की प्रार्थना की गयी है। आवेदन के साथ नियुक्ति-पत्र की फोटो प्रति संलग्न है।

(A) File No. 31/49/2011-S 1 A दिनांकित 6/8 May 2015 एवं आदेश सं० 19/2015 S 1 (A) of even filed dt. 03.06.15 के अनुसार नियमितकरण अगरतला दूरदर्शन केन्द्र पर किया जा रहा है। जिसके सम्बन्ध में नानक चन्द को दूरदर्शन केन्द्र अगरतला से नियुक्ति पत्र AGT/DDK/1 (3)/2015-16/6725 दिनांक 21.07.2015 का मिल चुका है। जिसकी प्रतियां संलग्न हैं। जिसकी प्रति संलग्न है। चूंकि कोई विवाद शेष नहीं रह गया है अतः वादी नियमितकरण का मुकद्मा वापस लेता है। आवेदन पर आवेदक कर्मकार तथा विपक्ष के विद्वान प्रतिनिधि को सुना। विपक्ष को मुकद्मा वापस लेने में कोई आपत्ति नहीं है अतः याची की आवेदन स्वीकार होने योग्य है।

आदेश

याची की आवेदन संलग्नक-1 अनापत्ति के आधार पर स्वीकार की जाती है तथा याचिका वापस लेने की अनुमति प्रदान की जाती है। याचित अनुतोष अस्वीकार किये जाते हैं। याची पुनः उन्ही आधारों पर दूसरी याचिका नहीं प्रस्तुत करेंगे। संलग्नक-1 एवार्ड का अंश होगा।

17. From above fact & circumstances, I am of the view that statement of claim of the applicant in relation to reference is fit to be dismissed as withdrawn. The claim petition is accordingly dismissed as withdrawn.

18. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1942.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली विकास अर्थारिटी और दूसरों के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 1 दिल्ली के पंचाट (संदर्भ सं० 43/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/09/2015 को प्राप्त हुआ था।

[सं० एल-42012/188/2014-आई आर (डीयू)]

पी०के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th September, 2015

S.O. 1942.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 43/2015) of the Central Government Industrial Tribunal Cum labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of the Delhi Development Authority & others and their workman, which was received by the Central Government on 29/09/2015.

[No. L-42012/188/2014-IR(DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL COM-LABOUR-COURT
NO. 1, KARKARDOOMA COURT
COMPLEX, DELHI**

ID No. 43/2015

Shri Dinesh Kumar
S/o Mewa Lal Gupta,
C/o 1800/9, Govindpuri Extension,
Main Road, Kalkaji,
New Delhi 11 0049

...Workman

Versus

1. The Secretary,
Delhi Development Authority,
Siri Fort Sports Complex,
August Kranti Marg,
Khel Gaon,
New Delhi 110 049

2. M/s. Niti Enterprises,
L-88, Kisan Vihar,
New Delhi 110 041

...Managements

AWARD

Central Government, *vide* letter No. L-42012/188/2014-IR(DU) dated 12.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of NITI Enterprises, Contractor, in terminating the services of the workman, Shri Dinesh Kumar, with effect from 01.05.2015 can be construed as termination of employment by DDA presuming the entity of contractor as sham and camouflage? If not, with relief the workman concerned is entitled to?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, Shri Dinesh Kumar opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal

article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies, in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award.

Dated: August 21, 2015

A.C. DOGRA, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1943.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण के केन्द्रीय सरकार दिल्ली विकास अथॉरिटी और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 दिल्ली के पंचाट (संदर्भ सं. 44/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/09/2015 को प्राप्त हुआ था।

[सं. एल-42012/189/2014 आईआर (डीयू)]

पी०के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th September, 2015

S.O. 1943.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 44/2015) of the Central Government Industrial Tribunal Cum Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Development Authority & others and their workman, which was received by the Central Government on 29/09/2015.

[No. L-42012/189/2014-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-COM-LABOUR
COURT NO. 1, KARKARDOOMA
COURT COMPLEX, DELHI**

ID No. 44/2015

Shri Vir Pal,
S/o Shri Gopi Ram,
C/o 1800/9, Govindpuri Extension,
Main Road, Kalkaji,
New Delhi 11 0019

...Workman

Versus

1. The Secretary,
Delhi Development Authority,
Siri Fort Sports Complex,
August Kranti Marg,
Khel Gaon,
New Delhi 110 049
2. M/s. Deepali (India) Enterprises
178, Block 14, Ground Floor,
L.B.S. Hospital, Khichripur,
New Delhi 110 019Managements

AWARD

Central Government, *vide* letter No. L-42012/189/2014-IR(DU) dated 12.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of NITI Enterprises, Contractor, in terminating the services of the workman, Shri Bajrang Bahadur Singh, with effect from 16.07.2013 can be construed as termination of employment by DDA presuming the entity of contractor as sham and camouflage? If not, with relief the workman concerned in entitled to?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Vir Pal opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies, in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award.

Dated: August 21, 2015

A.C. DOGRA, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1944.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली विकास

अथॉरिटी और दूसरों के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 46/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-09-2015 को प्राप्त हुआ था।

[सं. एल-42012/191/2014-आईआर (डीयू)]
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th September, 2015

S.O. 1944.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 46/2015) of the Central Government Industrial Tribunal-Com-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Development Authority & others and their workman, which was received by the Central Government on 29-09-2015.

[No. L-42012/191/2014-IR(DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT NO. 1, KARKARDOOMA COURT
COMPLEX, DELHI**

ID No. 46/2015

Shri Bindeshwari Prasad,
S/o Shri Ram Prakash,
C/o 1800/9, Govindpuri Extension,
Main Road, Kalkaji,
New Delhi-110019

....Workman

Versus

1. The Secretary,
Delhi Development Authority
Shri Fort Sports Complex,
August Kranti Marg,
Khel Gaon,
New Delhi 110049
2. M/s. Niti Enterprises
L-88, Kisan Vihar,
New Delhi 110 041Managements

AWARD

Central Government, *vide* letter No. L-42012/191/2014-IR(DU) dated 12.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of NITI Enterprises, Contractor, in terminating the services of the workman, Shri Bindeshwari Prasad, with effect

from 01.05.2013 can be construed as termination of employment by DDA presuming the entity of contractor as sham and comouflage? If not, what relief the workman concerned is entitled to?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Bindeshwari Prasad opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite services of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award.

A. C. DOGRA, Presiding Officer

Dated : August 21st, 2015

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1945.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली विकास अथॉरिटी और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय दिल्ली के पंचाट (संदर्भ सं. 47/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/09/2015 को प्राप्त हुआ था।

[सं एल-42012/192/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th September, 2015

S.O. 1945.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 47/2015) of the Central Government Industrial Tribunal Cum Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Development Authority & Others

and their workman, which was received by the Central Government on 29-09-2015.

[No. L-42012/192/2014-IR(DU)]

P.K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 47/2015

Shri Bhagirath,
S/o Shri Shyam Lal,
C/o 1800/9, Govindpuri Extension,
Main Road, Kalkaji,
New Delhi-110019

....Workman

Versus

1. The Secretary,
Delhi Development Authority
Shri Fort Sports Complex,
August Kranti Marg,
Khel Gaon,
New Delhi 110049

2. M/s. NITI Enterprises
L-88, Kisan Vihar,
New Delhi 110041

...Managements

AWARD

Central Government, *vide* letter No. L-42012/192/2014-IR(DU) dated 12.01.2015, referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of NITI Enterprises, Contractor, in terminating the services of the workman, Shri Bajrang Bahadur Singh, with effect from 01.05.2013 can be construed as termination of employment by DDA presuming the entity of contractor as sham and camouflage? If not, what relief the workman concerned is entitled to?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Bhagirath opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal

article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite services of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award.

Dated: August 21st, 2015

A.C. DOGRA, Presiding Officer

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1946.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दिल्ली विकास अथॉरिटी और दूसरों के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1 दिल्ली के पंचाट (संदर्भ सं 48/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 29-09-2015 को प्राप्त हुआ था।

[सं एल-42012/193/2014-आई आर(डीयू)]
पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 30th September, 2015

S.O. 1946.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 48/2015) of the Central Government Industrial Tribunal Cum Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Delhi Development Authority & others and their workman, which was received by the Central Government on 29.09.2015.

[No. L-42012/193/2014-IR(DU)]
P. K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT NO. 1, KARKARDOOMA COURT
COMPLEX, DELHI**

ID No. 48/2015

Shri Bajrang Bahadur Singh,
S/o Shri Kalaka Baks,
C/o 1800/9, Govindpuri Extension,

Main Road, Kalkaji,
New Delhi 110019

..... Workman

Versus

1. The Secretary,
Delhi Development Authority
Siri Fort Sports Complex,
August Kranti Marg,
Khel Gaon,
New Delhi 110 049

2. M/s. Niti Enterprises,
L-88, Kisan Vihar,
New Delhi-110 041

.... Managements

AWARD

Central Government, *vide* letter No. L-42012/193/2014-IR(DU) dated 12-01-2015, referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of NITI Enterprises, Contractor, in terminating the services of the workman, Shri Bajrang Bahadur Singh, with effect from 01.03.2013 can be construed as termination of employment by DDA presuming the entity of contractor as sham and camouflage? If not, what relief the workman concerned is entitled to?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Bajrang Bahadur Singh opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No dispute/Claim' Award.

A.C. DOGRA, Presiding Officer

Dated: August 21st, 2015

नई दिल्ली, 30 सितम्बर, 2015

का.आ. 1947.—राष्ट्रपति, श्री रंजन कुमार सरन, पीठासीन अधिकारी, केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, धनबाद-I को छह माह की अवधि अथवा नियमित आधार पर इस पद के भरे जाने तक इनमें जो भी पहले हो, केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, धनबाद-II के पीठासीन अधिकारी का अतिरिक्त प्रभार सौंपते हैं।

[सं ए-11016/03/2009-सीएलएस-II]

एस०के० सिंह, अवर सचिव

New Delhi, the 30th September, 2015

S.O. 1947.—The President is pleased to entrust the additional charge of the post of the Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-II to Shri Ranjan Kumar Saran, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I for a period of three months or till the post is filled on regular basis, whichever is earlier.

[No. A-11016/03/2009-CLS-II]

S.K. SINGH, Under Secy.

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1948.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, तमिलनाडु के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एव श्रम न्यायालय चेन्नई के पंचाट (संदर्भ सं० 42/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 01-10-2015 को प्राप्त हुआ था।

[सं एल-40011/1/2005-आई आर (डी यू)]

पी० के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 1st October, 2015

S.O. 1948.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 42/2005) of the Central Government Industrial Tribunal-cum-Labour Court Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Tamil Nadu and their workmen, which was received by the Central Government on 01-10-2015.

[No.L-40011/1/2005-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Monday, the 14th September, 2015

Present: K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 42/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Bharat Sanchar Nigam Ltd., Tamil Nadu Telecom Circle, Chennai and their workman)

BETWEEN

The Circle Secretary : 1st Party/Petitioner Union
BSNL Employees Union
No. 3/71, 4th Street, Raghava Nagar
Madipakkam
Chennai-600091

AND

1. The Chief General Manager : 2nd Party/1st
BSNL, Tamil Nadu Telecom Circle Respondent
Annasalai
Chennai-600002
2. The Principal : 2nd Party/2nd
RGM-CTTC, Meenambakkam Respondent
Chennai-600002
3. The Chairman & Managing : 2nd Party/3rd
Director BSNL, Sanchar Bhawan Respondent
New Delhi-110001

Appearance:

For the 1st Party/ : M/s K.M. Ramesh, Advocates
Petitioner Union

For the 2nd Party/ : Shri D. Simon, Advocate
1st, 2nd & 3rd
Respondent

AWARD

The Central Government, Ministry of Labour and Employment *vide* its Order No. L-40011/1/2005-IR (DU) dated 09.05.2005 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the action of the management of Telecom Department, BSNL, Chennai in non-regularizing/absorbing the services of the contract labourers numbering three *i.e.* Smt. Paulsoundaram, M. Sundari and S. Devi is legal and justified? If not, to what relief the workman/contract labourers are entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 42/2005 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The dispute has been pending before this Tribunal for a long time. After stay in the matter has been removed it was posted for evidence repeatedly. However, the petitioner has not come forward to tender evidence to substantiate the case. So far no documents have been produced in support of the case also. The petitioner seems to be not interested in pursuing the case. In the absence of any matter the reference is only to be answered against the petitioner.

Therefore the reference is answered against the petitioner. An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None
For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex. No.	Date	Description
	Nil	

On the Management's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1949.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ पोस्ट, चंडीगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय सं० 1, चंडीगढ़ के पंचाट (संदर्भ सं० 11/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 30/09/2015 को प्राप्त हुआ था।

[सं० एल-40011/4/2011-आई आर (डी यू)]
पी०के० वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 1st October, 2015

S.O. 1949.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 11/2011) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Department of Post, Chandigarh and their workmen, which was received by the Central Government on 30/09/2015.

[No.L-40011/4/2011-IR(DU)]
P.K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 11/2011. Reference No. L-40011/4/2011-IR(DU) dated 11.05.2011

Shri Surinder Pal Singh son of Shri Karam Chand C/O Shri R.K. Singh Parmar working

President Pb. INTUC, 211-LBrari, PO Partap Nagar, Nangal Dam, Ropar.

...Workman

Versus

1. The Senior Superintendent of Post Offices, Department of Post, GPO, Sector-17, Chandigarh.

...Respondent

Appearance

For the workman : Shri R.K. Singh
For the management : Shri Vikram Bajaj Advocate.

AWARD

Passed on 23.09.2015

Government of India Ministry of Labour *vide* notification No.L-40011/4/2011-IR (DU) dated 11.05.2011 has referred the following dispute to this Tribunal for adjudication:

"Whether the demand of Shri Surinder Pal Singh, Ex-BPM(GDS) at Mukari, Tehsil Anandpur Sahib, District Ropar, against the management of Sr. Supdt. of Post Offices, Sector-17D, Chandigarh for reinstatement in service *w.e.f.* 30.06.2010 with continuity of service with full back wages is legal and justified? What benefits the workman is entitled for and what directions are necessary in the matter?"

2. The workman filed claim statement in which it is pleaded that he was employed as BPM(GDS) at Village and PO Mukeri, District Ropar *w.e.f.* 18.8.2006 and was continuously employed as such till 30.6.2010 and before joining the present service he was working for his father as BPM for the last about three years. And he was paid wages in the pay scale of Rs.2745/- and on the date of termination drawing Rs.4000/- per month. It is further pleaded that on 1.7.2010 he was suddenly relieved from his duty by taking charge. There was no complaint against his work and conduct. It is pleaded that his termination from service *w.e.f.* 30.6.2010 is illegal in as much as he was not served with one month notice nor paid pay for one month in lieu of notice and not paid any retrenchment compensation which is pre condition to the termination. The management violated the provision of Section 25F of the I.D. Act, 1947.

It is prayed that the workman may be reinstated in service with full back wages with all other attendant benefits.

3. The management filed written statement in preliminary objection has been taken that the workman had already availed his remedies twice before the Central Administrative Tribunal by way of filing OA1993/PB/2008 seeking quashing of order dated 23.4.2008 under which his appointment on compassionate ground was rejected. His second OA was also dismissed; therefore, the workman cannot agitate his claims before this Labour Court. On merits it is pleaded that on the death of Shri Karam Chand as a stop gap arrangement the charge of Mukari BO was handed over to Surinder Pal who is the son of the deceased Karam Chand purely on temporary basis till appointment of regular BPM with the condition that he will not claim any right on the post. In order to fill up the post a proposal was sent to the CPMG and the approval was accorded on 22.9.2006. The workman also applied for the appointment on compassionate ground and since it has to take some time, therefore, the process to fill up the post was initiated and the post was notified for SC category on 5.2.2007. The workman had not applied against this post. The workman was engaged on this post in place of his father till the regular incumbent is recruited on the post. The workman itself has not availed the remedies of competing with others for recruitment which was from the open market and has been awaiting for his compassionate appointment which was ultimately rejected. The work has been assigned to regular incumbent and there is no other post available. Thus the disengagement of the workman is legal, valid and according to the conditions of his employment and therefore, the workman is not entitled for any claim and the reference deserves rejection.

4. The workman is evidence filed his own affidavit as Ex. W1. In rebuttal the management filed affidavit of Mr. P.D.S. Thakur as Ex. M1 who also relied on documents Ex. M2 to Ex. M5. The workman in his statement before this Tribunal admitted that the charge of Mukari BO was handed over to him on 19.8.2006 purely on temporary basis till the appointment of regular BPM. It is also admitted by the workman in his cross-examination that he applied on compassionate ground and his case was finally rejected on 13.3.2008 and on his filing a case before the CAT, the CAT ordered for reconsideration but his case was reconsidered and rejected on 23.7.2009. It is further admitted by the workman that he again moved to CAT but his second OA was also rejected by CAT on 4.8.2009. It is also admitted by the workman that Shri Mandip Singh son of Shri Sarwan Singh was appointed as GDSBPM Mukari BO and he was relieved on 30.6.2010. MW1 Shri P.D.S. Thakur in his statement before his Tribunal admitted that on notice was given to the workman nor any compensation was given. Workman himself has submitted a undertaking.

5. I have heard the parties, gone through the evidence and record.

6. It is submitted by the learned rep. of the workman during arguments that the workman served with the department from 19.8.2006 to 30.6.2010 for about four years. He was given the charge of the post in place of his father. The services of the workman were terminated on 30.6.2010 without payment of one month pay in lieu of notice and without payment of any retrenchment compensation which is in violation of the provisions of Section 25F of the Industrial Disputes Act 1947 and the workman are entitled for reinstatement with back wages. On the other hand the learned counsel for the management submitted during arguments that the workman was given the charge on stop gap arrangement on the death of his father on the clear understanding that on joining of regular candidate, the workman has to go. The workman also lost twice his case for compassionate appointment before the Central Administrative Tribunal and joining of regular candidate Shri Mandip Singh, the services of the workman were disengaged. The disengagement of the workman is in accordance with his undertaking given by him at the time of joining. Therefore, there is no violation of Section 25F of the Industrial Disputes Act 1947 and the workman is not entitled to any relief.

7. So far as the status of the workman on the post is concerned, it is clear from the evidence and admission of the workman himself that he was engaged on temporary basis on 19.8.2006. Thereafter regular incumbent was appointed on the post following the recruitment rules as applicable. The workman applied for considering on compassionate ground. His case was sent to the Circle Officer but his case was rejected. The workman challenged this order before the Central Administrative Tribunal, Chandigarh bench. The CAT, Chandigarh ordered for reconsideration of his case. The case of the workman was again rejected by the Circle Office against which the workman filed second original application before the CAT, Chandigarh. This second OA was again rejected by the CAT, Chandigarh. The management submitted that workman was engaged purely on temporary basis as stop gap arrangement. The management cited 1997(1) S.L.R. page 135 Union of India and other Vs. Bishamber Dutt. The management also cited 2007(1) All India Service Law Journal page 151 National Fertilizers Ltd. and Ors. Vs. Som Vir Singh. Another judgment 2009(3) All India Service Law Journal page 93 of the Hon'ble Supreme Court also cited by the management. In these case laws the Hon'ble Supreme Court has held that a person engaged without following the recruitment procedure is not entitled for regularization. If it is done, that would be back door entry and such regularization would be illegal. Thus in view of the above the reinstatement of the workman can not be ordered as he was engaged on the post without following the recruitment procedure. Moreover the person who was appointed after following the recruitment procedure also joined on the post.

8. On behalf of the workman it is submitted that he was engaged on 19.8.2006 and worked till 30.6.2010. The workman in his claim statement nowhere stated that he worked for 240 days in preceding year to the date of his disengagement. The management in its written statement clearly mentioned in para No. 5 that "the claimant has not given the details of days of his working. It is denied that he has worked continuously as alleged".. the management filed the affidavit of Shri P.D.S. Thakur Sr. Supdt. of Post Offices, Chandigarh. In the affidavit the management's witness substantiate the allegation made in the written statement and it is clearly mentioned in para No. 5 of the affidavit that the claimant has not given the details of days of his working and it is denied that he has worked continuously as alleged.

9. Form the above discussion, it is clear that workman was engaged purely on temporary basis as stop gap arrangement and not as per recruitment procedure and the regular incumbent who was selected after following the recruitment procedure has joined the post. The workman also failed to prove any violation of Section 25F of the I.D. Act. Therefore, the workman is not entitled to any relief.

10. The reference is answered accordingly. Central Govt. be informed.

Chandigarh.

23.09.2015

S.P. SINGH, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1950.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट संदर्भ संख्या 23/2006 को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं एल-22012/129/2005-आईआर (सी-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1950.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 23/2006 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 01/10/2015.

[No. L-22012/129/2005-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

IN THE COURT OF CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ASANSOL

Reference No.: 23/ITC/2006

Management of Girmint Colliery under Sripur Area of E.C.L.

v/s

Sri Pardeshi Chamar

SETTLEMENT IN LOK ADALAT

Held on 4th September, 2015 at CGIT-cum-LC, Asansol

AWARD

On amicable settlement by both parties the dispute is resolved in the Lok Adalat. The **Form 'H'** containing the terms of agreement of this settlement to be executed by both the parties in due course. Award is passed and signed accordingly.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1951.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट संदर्भ संख्या 76/1997 को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं एल-22012/60/1996-आईआर (सी-2)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1951.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 76/1997 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Johilla Area of Southern Eastern Coalfields Limited, and their workmen, received by the Central Government on 01/10/2015.

[No. L-22012/60/1996-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/76/97

General Secretary,
Rathtriya Koyla Khadan Mazdoor Sangh,
Johilla Area, Near Bus Stand,
Post Nowrozabad, Distt. Shahdol.Workman/Union

Versus

General Manager,
Johilla Area of SECL,
Post Nowrozabad Colliery,
Distt. Shahdol (MP)Management

AWARD

Passed on this 4th day of September 2015

1. As per letter dated 10.3.97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/60/96-IR (C-II). The dispute under reference relates to:

"Whether the action of the management of SECL, Bilaspur in withdrawing the promotion order of Shri Shankar Rai Chowdhary (passed on 20-1-92) to the post of Special Grade Clerk *vide* order dated 28.1.92 is legal and justified? If not, to what relief the concerned workman is entitled?"

2. After receiving reference, notices were issued to the parties. RKKMS Union submitted statement of claim on behalf of workman Shri Chowdhary at page 2/1 to 2/4. Case of workman is that workman Shankar Rai Chodhwary was initially appointed on 24.11.78 as clerk Grade III in G.M. Office, Central Coalfields Ltd. On 13.11.1979, he was promoted as clerk Grade-II. On 28.7.84, promoted as Clerk Grade I. Workman was trapped in communal feeling dispute. On 12.5.86, at Orissa, Bengali community people were harassed by local Orissa Community. While workman was harassed by local people, he requested for transfer to Calcutta or Bilaspur Headquarter. In the year 1986, just after the harassment, request for transfer was made. Management of SECL didnot pay attention to the application for transfer from 1986 to 1992 for 6 years. On 20.1.92, 6 persons including workman were promoted to the post of Special Clerk Grade. Order of promotion was issued by Personnel Manager Talcher Area. After his promotion, workman was transferred to Lingaraj Open Cast Project. Workman joined on promotional post on 22.1.92. Suddenly on 28.1.92, the promotion order was kept in abeyance. Thereafter all concerned workman were transferred to Johilla Area on 26.3.92 stating request transfer. Workman were surprised that after lapse of 6 years, the transfer application was brought to notice. Workman alleged *malafide* on part of management, workman immediately objected to it. Since workman belong to poor middle Class family, in order to maintain large family, he had no alternative but to accept the orders. He joined Johilla Area on 27.3.92. That order of promotion to the post of Special Grade was kept in abeyance. All those

persons were promoted as clerical staff except workman. The Union submits that order of transfer of workman is treated as administrative transfer and workman be given promotion as special grade clerk with all monetary benefits.

3. 2nd party filed Written Statement at Page 11/1 to 11/8 opposing claim of the workman. The initial appointment of workman as Clerk Grade III on 23.11.78 and his promotions to clerk Grade II on 13.11.79, Clerk Grade I from 30.7.84 are not disputed. Workman was working at SECL. He submitted application for his transfer. Copies of the applications were submitted to the Prime Minister, Minister of Energy and other authorities. In light of said application, workman was tranferred from Kalcher project *vide* order dated 27.7.91. General Manager, Johilla Area relieved him from his present posting. Workman has come on transfer from Kalcher Area. The promotion zone for clerk, promotion from Grade I to Special Grade is as per seniority cum merit. That as per guidelines of the company, employee who comes on request transfer is placed at bottom senirotiy. Workman was transferred on request. His transfer cannot be treated on administrative ground. Workman was relieved. He accepted transfer joining the place of transfer. Workman cannot be granted promotion from 20.1.94. The cadre scheme is reproduced. That for promotion to special Grade Clerk, qualification required is matriculation or equivalent exam. 5 years experience as clerk Grade-I. Mode of promotion is by DPC.

4. That as per order dated 20.6.92, six persons were promoted as LDC including Shri S.R. Chowdhary workman. Subsequently the matter was rectified. According to seniority cum merit, DPC recommended promotion of mine employees working as UDC. Workman was not recommended by DPC. All adverse contentions of workman are denied. 2nd party prays reference be answered in its favour.

5. Union filed rejoined at Page 12/1 to 12/6 reiterating his contentions in statement of claim. Management filed rejoinder at Page 13/to 3/3 reiterating contentions in Written Statement.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under, My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|--|---------------------|
| (i) | Whether the action of the management of SECL, Bilaspur in withdrawing the promotion order of Shri Shankar Rai Chowdhary (passed on 20.1.92) to the post of Special Grade Clerk <i>vide</i> order dated 28.1.92 is legal and justified? | In Negative |
| (ii) | If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. Workman has produced documents Exhibit W-1 order of his promotion to the post of Sr. Clerk dated 22.1.92. Exhibit W-2 joining letter of promotional post. Exhibit W-3 is letter dated 24.3.92 submitted to Project Officer regarding his transfer alleging that it was clear that after release from Tandsi Project, fresh order be issued. Exhibit W-4 office order workman was directed to report for duty to General Manager, Johilla Area since he was transferred on own request. Exhibit W-5 workman submitted joining report on 27.3.92 under protest alleging that he had submitted application for transfer to Calcutta or Bilaspur Head Office. That he was posted at Johilla Area. Exhibit W-6 is letter by Sub Area Manager to Dy. Chief Personnel Manager, Johilla Area. Since there was no steno/secretariat cadre staff, service of S. Raichi was utilized as special case though he was clerk Grade I. as per Exhibit W-6(a), Dy. General Manager by his letter to Dy. Chief Personnel Manager informed that performance of Shri S. Rai Chowdhary was satisfactory. His service were utilised as there was not steno/secretariat cadre. Exhibit W-7 office dated 28.9.97. 11 employees including workman were relied on their transfer. Exhibit W-7(a) office order dated 4.10.97 workman was transferred to Johilla Project. Rajspati Yogi was transferred to stores. Exhibit W-7(b) workman was transferred to Vindya project. Exhibit W-8 office order dated 19.7.98 workman Rai Chowdhary was posted as PA.

8. Management produced documents Exhibit M-1 workman was transferred to Johilla Area. Exhibit M-1(a) workman was directed to report General Manager, Johilla Area on his transfer. Exhibit M-2 workman was relieved and posted at Pinora Project from 27.3.94. Exhibit M-3, 3(a), (b) is cadre scheme. Exhibit M-4 is order of promotion dated 20.1.92. Workman was also promoted. Exhibit M-5 is order dated 28.1.92. Order of promotion was kept in abeyance.

9. Turning to the evidence, Ist party workman filed affidavit of evidence of Kallimulla Beg and workman S. Raichowdhary. Their affidavits are devoted to cover most of the points in the statement of claim of Ist party. That workman had requested transfer in 1986 due to communal feelings. However he was transferred to Johilla Area after 6 years. It is stated in both the affidavit. Kalimulla in his cross examination says he worked with workman at Pinoura Project in 1992-93 since he joined. The distance between Pinoura Project and GM office is about 10 Kms. In their cross-examination, both witnesses have reiterated that though workman had requested in 1984, he was transferred to Pinopura Project in 1990. Workman in his cross-examination says he had sent Exhibit W-1, its copies were sent to several authorities. He had not withdrawn Exhibit M-1. He received order M-2, M-3. Promotion of clerk in area wise as per seniority cum merit. Exhibit M-6 was subsequently introduced. As per Exhibit M-9, he was promoted to Clerk Special Grade. That his grievance was

that in UDC Grade, he had acquired seniority. he was transferred from Tilchar Sub Area. If he would have been transferred in 1986, he had no grievance.

10. Affidavit of evidence is filed by Shri K.K. Singh, he submitted that transfer to workman was on request. Workman was not entitled to transfer benefits. Workman was not recommended by DPC for higher promotion. In his cross-examination, witness says in 1986, he was working as Project Manager at Tilchar Area. He did not recollect on what post he was working in 1991-92. He was acquainted with the workman. That workman was desiring his transfer. On his request, he did not recollect when workman had submitted application for his transfer. Whether its copy is produced on record. He did not recollect in 1986, workman requested transfer to Bilaspur or Calcutta. In his cross-examination, management's witness says that workman had not submitted protest application. The documents Exhibit W-3 shows workman had requested for cancellation of his transfer. Exhibit W-5 is workman joined at Johilla Area under protest for the reasons that he had requested for transfer to Calcutta or Bilaspur. The evidence of workman is supported by documents whereas management's witness in his cross-examination is claiming ignorance on vital points. Therefore evidence of workman is accepted. Management has not explained any reasons why workman was not transferred on his request in 1986 when he was facing communal harassment. What were reasons for transfer in 1991 when workman had acquired seniority at Tilchar itself. Therefore the order of transfer of workman was issued with mala fide intention denying promotion. Workman was promoted as per order dated 20.1.92. The order of promotion was kept in abeyance as per order dated 28.1.92 is not justified. Workman on his transfer to Johilla Area was given bottom seniority, secondly he was denied promotion. The act of management is therefore illegal. For the reasons discussed above, I record my finding in Point No. 1 in Negative.

11. In the result, award is passed as under:—

(1) The action of the management of SECL, Bilaspur in withdrawing the promotion order of Shri Shankar Rai Chowdhary (passed on 20.1.92) to the post of Special Grade Clerk *vide* order dated 28.1.92 is illegal.

(2) 2nd part is directed to treat order of transfer of workman to Johilla Area as on administrative ground without affecting his seniority and give benefit to the order of his promotion dated 20.1.92. Workman be paid all monetary benefits.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1952.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 44/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.10.2015 को प्राप्त हुआ था।

[सं एल-22012/340/1996-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1952.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 44/1997) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Kunustoria Colliery of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 01.10.2015.

[No. L-22012/340/1996-IR (C-II)]
RAJENDER SINGH, Sention Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Shri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 44 OF 1997

PARTIES: The Management of Kunustoria Colliery of
M/s. ECL

Vs.

Shri Radhakrishna Mishra

REPRESENTATIVES:

For the Management : Shri P.K. Das, Ld. Adv.
(ECL)

For the Union (Workman) : Shri S.K. Pandey, Gen.
Secy. (CMC)

Industry: Coal State: West Bengal
Dated: 07.09.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/340/1996-IR(C-II) dated 22.07.1997 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the denial of the management of Kunustoria Colliery of ECL to regularise/promote

Sh. Radhakrishna Mishra, Cap Lamp Fitter as Asst. Cap Lamp In-charge is legal and justified? If not, to what relief is the workman entitled and from which date?"

Having received the Order No. L-22012/340/1996-IR (C-II) dated 22.07.1997 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 44 of 1997 was registered on 28.07.1997 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out Shri P.K. Das, Learned Advocate appears on behalf of the management (ECL). Shri S.K. Pandey, General Secretary of the Union (CMC) is present on behalf of the workman.

Shri Pandey, representative of the workman declines to contest the case further. He verbally submits that the workman is no more interested to proceed with the case further.

On perusal of the case record I find that the case was fixed for evidence of workman on 03.02.2010 *vide* order No. 64 dated 25.11.2009 and again for evidence and physical appearance of the workman on 13.02.2013. But, neither the workman appeared physically nor the evidence of the workman has been filed. So it is apparent that the workman is now at all interested to proceed with the case further. This is a case of the year 1997 *i.e.* 18 years have already passed. So I think it is not proper and just to keep this old record pending without any result. As such the case is closed and accordingly a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as not dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1953.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 42/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं एल-22012/543/1999-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1953.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Nimcha(R) Colliery of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 01/10/2015.

[No. L-22012/543/1999-IR(CM-II)]
RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Shri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 42 OF 2000

PARTIES: The Management of Nimcha (R) Colliery of
M/s. ECL

Vs.

Shri Alokdeo Singh

REPRESENTATIVES:

For the Management : Shri P.K. Goswami, Ld. Adv.
(ECL)

For the Union (Workman) : Shri Rakesh Kumar,
President, KMC

Industry: Coal State : West Bengal

Dated: 10.09.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/543/1999-IR(CM-II) dated 06.07.2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Nimcha(R) Colliery under M/s. E.C. Ltd. in denying the date of birth of Shri Alokdeo Singh as July, 1972 is justified? If not, to what relief the workman is entitled?"

Having received the Order No. L-22012/543/1900-IR (CM-II) dated 06.07.2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 42 of 2000 was registered on 01.08.2000 and accordingly an order

to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Shri P.K. Goswami, Learned Advocate appears on behalf of the management (ECL). None appears on behalf of the workman/union.

On perusal of the case record it was found that the case was fixed for filing evidence of the workman on 29.01.2013. More than 2 years and 15 dates have so far been passed but evidence of the workman has not been filed. Shri Rakesh Kumar, President of the union, who represents this case on behalf of the workman, has made his signature on 29.01.2013 and 19.06.2013. He has also received the notice of the Tribunal on 26.08.2014, but to no effect.

It seems that neither the workman nor the union is interested to proceed with the case further. The case is of the year 2000 *i.e.* 15 years ago and I think it unreasonable to keep this old record pending. As such the case is closed accordingly a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as not dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1954.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 81/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं. एल-22012/140/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1954.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 81/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Amritnagar Colliery of M/s. ECL, and their workmen, received by the Central Government on 01/10/2015.

[No. L-22012/140/2004-IR(CM-II)]
RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

PRESENT: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 81 OF 2005

PARTIES: The management of Amritnagar Colliery of
M/s. ECL

Vs.

Sri R.N. Bhati and 36 others

REPRESENTATIVES:

For the management: Sri P.K. Das, Ld. Adv. (CLE)

For the union (Workman): H.L. Soni, Secretary (KMC)

Industry : Coal State : West Bengal

Dated: 18.09.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/140/2004-IR(CM-II) dated 27.06.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"whether the action of the Amritnagar Colliery under M/s. CEL in denying upgradation in the next higher grade in respect of Shri R.N. Bhati and 36 others (list of workmen enclosed) clerical staff is legal and justified? If not, to what relief the concerned workman is entitled?"

Having received the Order No. L-22012/140/2004-IR (CM-II) dated 27.06.2005 of the above said reference from the Govt. of India. Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 81 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Sri P.K. Das, Learned Advocate appears on behalf of the management (ECL) but he has not filed written statement till date. None appears on behalf of the workman/union.

On perusal of the case record I found that Sri H.L. Soni, secretary of the union (KMC) appeared and filed written statement on behalf of the workman on 26.10.2005. But after 20.01.2007 the union is neither appearing nor taking

any step. 27 dates have been granted after 20.01.2007 but neither the workman nor his representative turned up. Even registered notice was sent to the union on 17.05.2012 and 25.07.2014 but to no effect. It seems to me that the union/workman is now not at all interested to proceed with the case further. The reference case is also old i.e. in the year of 2005. So the case is closed and accordingly a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India. Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1955.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 66/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं. एल-22012/314/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1955.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award (Ref. No. 66/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court. Asansol as shown in the Annexure, in the industrial dispute between the management of M/s Eastern Coalfield Limited and their workmen, received by the Central Government on 01.10.2015.

[No. L-22012/314/2004- IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

PRESENT: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 66 OF 2005

PARTIES: The management of Kunustoria Colliery of
M/s. ECL

Vs.

Sri Sanatan Majhi

REPRESENTATIVES:

For the management: Sri P.K. Das, Ld. Adv. (CLE)
 For the union (Workman): None

INDUSTRY: COAL STATE: WEST BENGAL
 Dated: 17.09.2015

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L- 22012/314/2004-IR (CM-II) dated 20.07.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"whether the action of the Kunustoria Colliery M/s. Eastern Coalfields Limited in dismissing Sh. Sanatan Majhi from Services w.e.f. 26.03.1999 is legal and justified ? if not, to what relief the concerned workman is entitled.?"

Having received the Order No. L-22012/314/2004-IR (CM-II) dated 20.07.2005 of the above said reference from the Govt. of India. Ministry of Labour, New Delhi for adjudication of the dispute, a Reference, Case No. 66 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of his authorization of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Sri P.K. Das, Learned Advocate appears on behalf of the management (ECL) but he has not filed written statement till date. None appears on behalf of the workman/union.

On perusal of the case record I found that the union neither appearing nor taking any step from 17.11.2009. 30 dates have been granted after 26.08.2009. Registered notices were also issued to the workman/union on 24.05.2012 and 20.08.2014 but all are in vain. It seems to me that the union is now not at all interested to proceed with the case further. The case is also very old - in the year 2005. As such the case is closed and accordingly a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India. Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1956.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 97/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं. एल-22012/179/2006-आईआर (सीएम-II)]
 राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1956.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947)] the Central Government hereby publishes the Award (Ref. No. 97/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court. ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s ECL, and their workmen, received by the Central Government on 01.10.2015.

[No. L-22012/179/2006- IR (CM-II)]
 RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL-CUM-LABOUR
 COURT, ANANSOL**

Present : Sri Pramod Kumar Mishra,
 Presiding Officer

REFERENCE NO. 97 OF 2006

Parties : The management of Gourandih-Begunia
 Colliery of M/s. ECL

Versus

Sri Nirod Bouri

REPRESENTATIVES:

For the management : Sri P.K. Goswami, Ld. Adv.
 (ECL)

For the union (Workman) : H.L. Soni, Secretary (KMC)

Industry : Coal State : West Bengal
 Dated : 18.09.2015

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/179/2006-IR(CM-II) dated 29.11.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the Gourandih-Begunia Colliery in dismissing Sri Nirod Bouri, Drillier w.e.f.

31.10.2003 is legal and justified? If not, to what relief the workman is entitled?"

Having received the Order No. L-22012/179/2006-IR (CM-II) dated 29.11.2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 81 of 2005 was registered on 17.08.2005 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both the parties are absent.

On perusal of the case record I found that this is a case of the year 2006, one of the oldest cases in the Tribunal. The case is represented by Sri H.L. Soni, Secretary of the Union (KMC) on behalf of the workman and Sri P.K. Goswami, Ld. Adv. on behalf of the management. Written Statement has been filed the management on 05.10.2007. The union neither files written statement nor takes any step from the beginning. First notice was issued on 12.01.2007 and 9 dates were granted after that. 2nd notice was issued on 20.07.2009 and 14 dates were granted after that. 3rd notice was again sent to the union on 02.01.2012 and 13 dates were granted after issuing 3rd notice. 4th and final notice was issued on 01.09.2014 and the same was received by Sri. H.L. Soni himself on 12.09.2014. Two dates were granted after that but the union/workman neither appears nor files written statement. It seems that the union/workman is not at all interested to proceed with the case further. As such the case is closed and accordingly a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1957.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं० 117/1995) को प्रकाशित करती है जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं० एल-22012/559/1994 आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1957.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 117/1995) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of Kahan Area of Western Coalfields Limited, and their workmen, received by the Central Government on 01/10/2015.

[No. L-22012/559/1994-IR (C-II)]
RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/117/95

The Secretary,
Rashtriya Koyla Khadan Mazdoor Sangh (INTUC),
Sub Regional Office, Damua,
P.O. Damua, Distt. Chhindwara ...Workman/Union

Versus

General Manager,
WCL, Kahan Area,
PO Dungaria,
Distt. Chhindwara ...Management

AWARD

Passed on this 4th day of September 2015

1. As per letter dated 19.6.1995 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/559/94-IR(C-II). The dispute under reference relates to:

"Whether the action of the management of project Officer, Tandsi Project of WCL, PO Tandsi, Distt. Chhindwara (MP) in not correcting the date of birth of Shri Sayed Ramjan ali S/o Sayed Wajid Ali, Sr. Overman of Tandsi project of WCL, Kahan Area from 1.1.1935 to 5.1.1937 without giving any consideration to his date of birth recorded as 5.1.1937 in the High School Supplementary Examination, 1963 produced by him is justified? If not, to what relief the concerned workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 3/2 to 3/6. Workman died during pendency of reference proceeding. His LR's are brought on record. The case of Ist party workman is that he was appointed as Mining Sirdar on 26.9.66. He was transferred to Rawanwara colliery.

Workman was dismissed on 9.5.72. He was reinstated on 30.10.72. Again workman was transferred to Ambara in 1976, Mohan Colliery in 1982, VTC Sukari in 1984, Tandsi project in 1987. Workman had taken voluntary retirement on 19.02.93. Workman submits that after taking VRS, he is entitled to benefits under the VRS Scheme dated 8.3.89. Management wrongly assessed his date of birth. He passed Matriculation in 1983. In SSC Certificate, Gas Testing Certificate, his date of birth is shown 5.1.1937. In Form B register, his date of birth was shown 1.1.1935 instead of 5.1.1937. Workman prays for correction of his date of birth.

3. 2nd party filed Written Statement Statement at page 4/1 to 4/3 opposing claim of the workman. 2nd party submits in Form B Register, date of birth of workman is recorded 1.1.1935. It is statutory register maintained as per Coal Mines Regulation. The entries made in register is accepted as correct as the entries were taken on information furnished by workman. I.I. No. 76 was issued to JBCCI under NCWA-III. The excerpts of services of workman were prepared. Workman was given opportunity for correction of date of birth. Workman did not raise objection about his age shown in Service Excerpts. There was no dispute about the date of birth of workman. I.I. No. 37 as per NCWA-II was implemented. It was displayed on notice board inviting objections of the workman aggrieved about their date of birth to submit objection within 90 days. Reference is vague. It does not specify record which is not considered by management. Date of birth entered in record by management is correct. Workman not produced certificate about his date of birth while he was in service. Workman has taken VRS on 19.02.95. On such ground, 2nd party prays reference be answered in its favour.

4. Identical Written Statement is also submitted by 2nd party at page 8/1 to 8/7.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|----------------|
| (i) Whether the action of the management of project Officer, Tandsi Project of WCL, PO Tandsi, Distt. Chhindwara (MP) in not correcting the date of birth of Shri Sayed Ramjan ali S/o Sayed Wajid Ali, Sr. Overman of Tandsi project of WCL, Kanhan Area from 1-1-1935 to 5.1.1937 without giving any consideration to his date of birth recorded as 5.1.1937 in the High School Supplementary Examination, 1963 produced by him is justified? | In Affirmative |
|---|----------------|

- | | |
|---|--|
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |
|---|--|

REASONS

6. As per terms of reference, the dispute pertains to date of birth of workman. The dispute is referred by Government of India, Ministry of Labour as per letter dated 19.6.95. Workman has taken VRS on 19.2.93. The dispute is raised after taken VRS by workman.

7. Workman filed affidavit of his evidence in support of his claim contending that in certificate of supplementary SSC Examination, Gas Testing Certificate, overman Certificate, School Leaving Certificate, his date of birth is recorded 5.1.1937. His date of birth was wrongly recorded as 1.1.1935 illegally. He had given letter to the management for correction of date of birth of 14.4.1989. Workman could not be cross-examined. He died during pendency of the proceeding. Affidavit of evidence are also filed by his son Syed Akram Ali corroborating evidence of workman that his date of birth was 5.1.1937. The documents Exhibit W-1 Certificate of supplementary Exam, Exhibit W-2 Gas Testing Certificate, Exhibit W-3 Overman Certificate, Exhibit W-4 school leaving certificate, Exhibit W-5 LPC shows date of birth of workman is recorded 5.1.1937. Syed Akram S/o Workman in his cross-examination says documents Exhibit W-1 to W-4 were received by his father. He was unable to tell whether original of Exhibit W-5 was with his father. His father was appointed on 30.10.72. He taken VRS in 1992. At that time, he was working as Sr. Overman. He claims ignorance for date of birth of his father was shown at the time of VRS.

8. Management's witness Shri Amit Kumar Mathur filed affidavit of his evidence supporting contentions of management. That date of birth of deceased workman in Form B register was recorded 1.1.1935. I.I. No.76 was issued by JBCCI as per NCWA-III. Service excerpts were prepared. Date of birth of workman was shown 1.1.1935. Workman did not submit any objection to it. Workman did not dispute his date of birth. He had taken VRS on 19.2.93. Form his evidence, documents Exhibit M-1 to M-6 are proved. Management's witness in his cross examination says he had seen documents about VRS of deceased workman. I.I. No. 76 applied in case of dispute for date of birth. He claims ignorance w.r.t 14.4.89 denies its contents. He denies that Accounts Officer had suggested for correction of date of birth of workman. The evidence on record shows deceased workman while in service of 2nd party did not raise dispute about his date of birth. The present dispute is raised after workman had taken VRS on 19.2.93. In evidence of management's witness that service excerpts were prepared as per I.I. No. 76. Workman had not raised any objection is not shattered. The dispute raised by workman after taking VRS as such not in service with 2nd party is not permissible in view of I.I. No. 76. legal position is also settled that the objection about date of birth should be

raised at the earliest. The evidence of Syed Akhtar Ali is clear that documents Exhibit W-1 to W-4 were with his father. Why deceased workman did not raise dispute about his date of birth while he was in service from 1966 and reinstated in 1972. Though the date of birth of workman is shown 5.1.1937 in Exhibit W-1 to W-4, after workman has taken VRS, the dispute has raised. The correction of date of birth of workman after VRS cannot be accepted. Management has produced documents Exhibit M-1 about reinstatement of workman in 1972, M-2 is copy of LPC, date of birth of workman is shown 1-1-1935. Exhibit M-3 Form B date of birth is shown 1-1-1935. Exhibit M-4 Service Excerpts of workman, his date of birth is shown 1-1-1935 inviting objections within 14 days.

9. Management's witness in his cross-examination says that in matter about correction of date of birth of workman was not received. Therefore no enquiry was taken in the matter.

10. Shri A.K. Shashi relies on ratio held in appeal 8634/13. He also relies on judgment in Writ petition 18/99. The present dispute is raised for correction of date of birth after VRS taken by workman. The detailed discussion of those judgments is not necessary. For above reasons, I record my finding in Point No. 1 in Affirmative.

11. In the result, award is passed as under:—

- (1) The action of the management is proper and legal.
- (2) Workman/LRs are not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1958.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 110/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं. एल-22012/42/1994-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1958.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 110/1995) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Gajandoh Mines of Western Coalfields Limited, and their workmen, received by the Central Government on 01/10/2015.

[No. L-22012/42/1994-IR (C-II)]
RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/110/95

Shri Faiyazuddin
S/o Sirajuddin, Ex. Clipman,
Ward No. 4, Eklehra Colliery,
Distt. Chhindwara

...Workman

Versus

The Manager,
Gajandoh Mines of WCL,
PO Parasia,
Distt. Chhindwara

...Management

AWARD

Passed on this 2nd day of September 2015

1. As per letter dated 7-6-95 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section - 10 of I.D. Act, 1947 as per Notification No. L-22012/42/94-IR (C-II). The dispute under reference relates to:

"Whether the action of the management of Gajandoh Mine of Western Coal Fields Limited in dismissing the services of Shri Faiyazuddin clipman *w.e.f.* 11-11-92 is legal and justified? If not, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 2/1 to 2/4. Case of workman is that he was appointed in Eklehra colliery in 1973. He was promoted to the post of Trammer and post of Clipman Cat-IV subsequently. He was transferred to Bhamori colliery in 1984. Again he was transferred to Gajandoh mine in June 1994. It is further submitted that Manager Gajandoh colliery adopted rigid view against him for Union activities. He was falsely implicated for charges of theft, fraud, dishonesty with employers business and property. Manager has complained to police regarding the same charges, trial was over. That management denied to supply copy of FIR and statement of prosecution witnesses. Workman was denied opportunity for his defence in the enquiry. That Civil Court had stayed domestic enquiry till ending criminal trial in criminal court. It was unfair to compel him to defence his witness in domestic enquiry. Enquiry was proceeded *ex parte* in violation of the stay order by court amounting to contempt. That domestic enquiry conducted during pendency of criminal trial is vitiated. Findings in enquiry is illegal. The chargesheet alledged that report against workman was received. He had entered in the mine in midnight without helmet and lamp and bringing 20mt. cable form mine was caught. It was alleged that I caused damage

of Rs. 10,000 to the company. Workman denied charges against him. Shri A.K. Singh was appointed Enquiry Officer. Enquiry was completed was empty formality. Enquiry Officer was putting questions during examination in chief by the management's representative was admitted by Enquiry Officer.

3. It is further submitted that the chargesheet is vague and Manager not specified allegations of the charges. Workman committed misconduct. Chargesheet was issued to workman alleging misconduct. Subsequently FIR was lodged to policy management in Civil Suit hardly in Court. DE was stayed. Criminal case was pending. Enquiry Officer denied equal protection of law to workman. That he was falsely implicated by management. The management failed to prove misconduct alleged against him in the chargesheet. Management could not produce Enquiry report during conciliation proceedings. That action was taken by Manager independently in the absence of Enquiry Report in violation of principles of natural justice. Enquiry is vitiated. On such ground, workman prays for appropriate relief.

4. 2nd party filed Written Statement at Page 6/1 to 6/3 opposing claim of the workman. 2nd party submits that workman was working as clipman in Gajandoh mine of WCL. On 24-8-92, workman was on duty in 2nd shift. After he was relieved with view to commit theft, he entered in mine unauthorisely and attempted to steal 20mt cable from mine. He was caught red handed while attempting to steal said property. Chargesheet was issued to workman. He did not submit any reply to the chargesheet. Shri A.K. Singh Personnel Officer was appointed as Enquiry Officer. Shri A.K. Kapoor was appointed as management's representative. Enquiry Officer *vide* notice dated 14-9-92 directed parties to appear on 16-9-92. Management representative and workman had appeared on said date. Workman denied charges against him. When workman was asked about appointing co-worker for his defence, workman submitted application. Enquiry was adjourned to 18-9-92. On said date, workman nominated Abdul Raut Mining sirdar as his co-worker. He was permitted to represent workman. Enquiry was adjourned to 19-9-92. On above date, workman appeared alongwith co-worker. He submitted application requesting standing orders, documents of enquiry. Workman was shown entire file for study by co-worker. Entire papers were readover and explained to him. Enquiry was conducted in presence of workman and his co-worker. The witnesses of management were cross-examined. The enquiry was closed. 2nd party reiterates that enquiry was held properly following principles of natural justice. Opportunity for defence was given to the workman. The action of the management is justified. It is denied that enquiry was not properly conducted. It is reiterated that workman was indulged in theft of company's property. He is not a fit person to be retained in service. Management has no confidence in workman. Claim of workman be rejected.

5. Workman submitted rejoinder at Page 9/1 to 9/3 reiterating his contentions in statement of claim.

6. Management also filed rejoinder at Page 8/1 to 8/6 reiterating contentions in written statement.

7. As per order dated 11-8-2014, enquiry conducted against workman is found vitiated. 2nd party was permitted to prove misconduct adducing evidence.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|-------|--|--------------------|
| (i) | Whether the charges/
misconduct alleged againsts
workman is proved from
evidence in Enquiry
proceedings? | In Negative |
| (ii) | Whether the punishment of
dismissal imposed against
workman is proper and legal? | In Negative |
| (iii) | If not, what relief the
workman is entitled to?" | As per final order |

REASONS

9. Enquiry conducted against workman is found illegal. 2nd party was permitted to prove misconduct by adducing evidence. Management filed affidavit of witness Prakash Agrawal. Affidavit of management's witness has stated that workman was working as clipman in Gajandoh branch. On 24-8-92, he was on duty in 2nd shift without permission of competent officer, workman had entered in mine in the night. On 24-8-92, he was on duty by the side of shift overman. Other employee Bhikari and Jagannath were working in Electrical department. They had given information about thief had entered. He had given said information to security guard Sidhu Prasad and Ramkewal. Shift Incharge Shri Deshpande during inspection Shri Fiyazuddin (workman) and Ramdas were found in the mine. They were not workman in his shift. They had not entered in mine with his permission. Fiyazuddin and Ramdas were not wearing helmet and lamp. In his cross-examination, management's witness claims ignorance about chargesheet issued to Fiyazuddin and Ramdas. He is acquainted with Ramdas. He claims ignorance whether he is still working in establishment of 2nd party or he is re-employed. He was witness in Enquiry Proceedings. On 19-9-92, he was not present in Enquiry Proceedings. In his further cross-examination, management's witness says he had not seen Fiyazuddin and Ramdas entering the mine. He had seen them in the underground mine. Workman is acquitted by criminal court. Copy of judgement is produced on record. Judgment shows that Ramdas and Fiyazuddin were prosecuted under Section 380/34 IPC. Both of them were acquitted by JMFC, Chhindwara. The chargesheet issued

to workman is produced at Exhibit M-1. Chargesheet was issued under Clause 17(1) of standing orders alleging misconduct of theft, dishonesty and violation of mining rules 1952. As enquiry is found vitiated, the evidence in Enquiry Proceedings cannot be considered. The evidence of management's witness is not cogent that he had seen Ist party workman entering in the mine. His evidence is silent about the workman carrying 20mt. cable with him. The evidence of management's witness is not sufficient to establish admitted theft or fraudulent intention. When workman is acquitted in criminal case for the same allegation, judgment of criminal court deserves to be respected. The charge against workman is not proved therefore I record my finding in Point No. 1 Negative.

10. Point No. 2 In view of my finding in Point No. 1 charge against workman is not proved, punishment of dismissal imposed against workmen cannot be sustained. The punishment of dismissal of workman therefore deserves to be quashed. Accordingly I record my finding in Point No. 2.

11. Workman was initially appointed in 1973. He was dismissed from service on 11-11-92 after about 19 years service. Workman died during pendency. His LRs are brought on record. Workman cannot be reinstated. Considering above facts, reasonable compensation could be awarded to the LRs of deceased workman. Accordingly I record my finding in Point No. 3.

12. In the result, award is passed as under:—

- (1) The action of the management of Gajandoh Mine of Western Coal Fields Limited in dismissing the services of Shri Faiyazuddin clipman *w.e.f.* 11-11-92 is not proper and legal. The dismissal of workman is set-aside.
- (2) 2nd party is directed to pay compensation Rs. 2,50,000/- to the workman.

R. B. PATLE, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1959.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 15/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं. एल-22012/169/1994-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1959.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/1994) of the

Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Narsamunda Colliery of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 01/10/2015.

[No. L-22012/169/1994-IR (C-II)]
RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present:: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 15 OF 1994

Parties: The management of Narsamunda Colliery of
M/s. ECL

Vs.

Sri Parmanand Singh

REPRESENTATIVES:

For the management: Sri P.K. Das, Ld. Adv. (ECL)
For the union (Workman): Sri N. Ganguly, Ld. Adv

INDUSTRY: COAL STATE: WEST BENGAL
Dated: 03.09.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/169/1994-IR(C-II) dated 07.11.1994 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Narsamunda Colliery in not regularizing Shri Parmanand Singh, Security Guard in the post of Security Havildar *w.e.f.* 12.12.1985 is justified? If not to what relief is the workman entitled to?"

Having received the Order No. L-22012/169/1994-IR(C-II) dated 07.11.1994 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 15 of 1994 was registered on 25.07.1996 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Sri P.K. Das, Learned Advocate appears on behalf of the management (ECL). Sri N. Ganguly, Learned Advocate, who is also present for some other engagement, submits that the case may be closed as he has no contact with the workman/union for last five years.

On perusal of the case record I find that Sri Ganguly, Ld. Adv. last appeared before the tribunal on 28.11.2007 on behalf of the workman. Thereafter no one has turned up on behalf of the workman. Registered notices were again issued on 19.03.2009 and 19.03.2012 but no response. It seems that the workman/union is now not all interested to proceed with the case further. The case is of the year 1994. As such the case is closed and accordingly a 'No Dispute Award' may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 अक्टूबर, 2015

का.आ. 1960.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 77/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/10/2015 को प्राप्त हुआ था।

[सं एल-22012/202/2000-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st October, 2015

S.O. 1960.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure, in the industrial dispute between the management of Mahadeopuri Mine of Western Coalfields Limited, and their workmen, received by the Central Government on 01/10/2015.

[No. L-22012/202/2000-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/77/2001

Shri Sabir Khan,
S/o Habibulla,
Ex. D.P.R. of Mahadeopuri Colliery,

Chief House, Chandametta,
Distt Chhindwara (MP)

....Workman

Versus

The Manager,
Mahadeopuri Mine of WCL,
PO Parasia,
Distt, Chhindwara (MP)

.....Management

AWARD

Passed on this 4th day of September, 2015

1. As per letter dated 12-4-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/202/2000-IR(C-II). The dispute under reference relates to:

"Whether the action of the CME/Sub Area Manager, Newton Sub Area of WCL, PO Parasia, Distt. Chhindwara (MP) in dismissing the services of Shri Sabir Khan S/o Habibulla, DPR of Mahadeopuri Mine of WCL, PO Parasia, Distt. Chhindwara (MP) w.e.f. 1-11-99 is justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties, Workman submitted statement of claim At Page 2/ 1 to 2/3. Case of workman is that he was appointed on 12-8-81 as DPR at Mahadeopuri Mine, pench area. Chargesheet issued to him on 30-9-99. Management illegally charged him though he was not involved in incident of violence and destruction of property. Bharat Singh Sakrawar was his Defence Assistant was not present 13-9-99 in the enquiry. Enquiry Officer under pressure of management proceeded ex parte against workman in enquiry. Workman was dismissed on 29-10-99. Order of punishment was not issued by Competent Authority. His Appointing Authority is General Manager. The Separate Order was issued by Sub Area Manager. On such ground workman prays for his reinstatement.

3. 2nd party filed Written Statement at Page 7/1 to 7/6 opposing claim of the workman. 2nd party submits that workman was initially appointed as departmental piece rated employee at Shivpuri underground mine. He was transferred to Mahadeopuri mine as DPR. Complaint was received against workman on 1-9-99 from Abdul Hameed, chargesheet was issued to workman on 3-9-99 for misconduct under cause 26.23, 26.27 of standing order pertaining to causing wilful damage to the work, conduct within mine premises endangering life and safety of others. Enquiry was conducted on various dates. On 13-9-99, request for adjournment was rejected and evidence of management's witness was recorded. Enquiry Officer held charges against workman proved. Workman was dismissed as per order dated 19-10-99. 2nd party reiterates that the

enquiry was properly conducted following principles of natural justice. The dismissal of workman is proper and legal.

4. Enquiry conducted against workman is found vitiated as per order dated 13-12-12. Management was permitted to prove misconduct by leading evidence.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|--|---------------------|
| (i) | Whether the charges against workman are proved by 2nd party? | In Negative |
| (ii) | Whether the punishment of dismissal imposed against workman is proper and legal? | In Negative |
| (ii) | If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. As discussed above, enquiry conducted against workman is found illegal. Management was permitted to prove misconduct adducing evidence. I may mention that the documents related to enquiry are produced at Exhibit W-1 to W-7. Copy of Judgment of Criminal court is produced, workman was acquitted.

7. Management has also produced documents of enquiry. The discussion of documents of enquiry is not required as enquiry is found vitiated. Management is order to prove charges alleged against workman, management examined witness Shri Abdul Hameed. He has not supported any charges alleged against workman. The complaint was read over to him. Witness of management only admitted his signature, the complaint is marked Exhibit M-2 but he says its contents are false. Chargesheet exhibit M-3 was also explained to the witness. Management's witness says the charges are false. He admits his signature. No other witness is examined by management to prove the charges. From evidence on record, charges alleged against workman cannot be proved therefore I record my finding in Point No. 1 in Negative.

8. As charges alleged against workman are not proved, the order of punishment of dismissal cannot be sustained therefore I record my finding in Point No. 2 in Negative.

9. Point No. 3-In view of my finding in Point No. 1, 2 charges alleged against workman are not proved, order of his dismissal cannot be sustained, question remains for consideration is whether workman is entitled for reinstatement with backwages.

Shri A.K. Shashi learned counsel for 2nd party on the point relies on part held in case of Jaipur Golden Transport

Company Ltd. vrs Munna Khan Dost Khan Mohammad and another reported in 2000(1)LLN 955. Their Lordship set aside the order of reinstatement by Labour Court and instead compensation Rs. 1,90,000 was allowed. The facts of present case are not comparable as in Para-9 of the above cited judgment, their Lordship observed that it is not possible to agree with the view taken by the Labour court merely because the workmen who instigated the assault and damage to the company's property were standing outside the premises of the company. The workman has completed 58 years.

In present case, the age of workman is shown 45 years in his affidavit of evidence filed on 30-11-09. The age of workman may be about 51 years. The charges against workman are not proved therefore punishment of dismissal is illegal. As charges are not proved, workman deserved reinstatement with backwages. Accordingly I record my finding in point No. 2.

10. In the result, award is passed as under:—

- (1) The action of the CME/Sub Area Manager, Newton Sub Area of WCL, PO Parasia, Distt. Chhindwara (MP) in dismissing the services of Shri Sabir Khan S/O Habibulla, DPR of Mahadeopuri Mine of WCL, PO Parasia, Distt. Chhindwara (MP) *w.e.f.* 1-11-99 is not proper.
- (2) 2nd party is directed to reinstate workman with continuity of service with backwages.

R.B. PATLE, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1961.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ सं० 24/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं० एल-41011/117/2009-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1961.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Northern Railway and their workmen, received by the Central Government on 05/10/2015.

[No. L-41011/117/2009-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, LUCKNOW****PRESENT**

Shri Rakesh Kumar, Presiding Officer

I.D. No. 24/2010

Ref. No. L-41011/117/2009-IR (B-I) dated: 09.11.2010

BETWEEN

Mandal Sangatan Mantri
Uttar Railways Karmchari Union
283/63, Kh Gadi Kannora
PO Manak Nagar
Lucknow
(Espousing cause of Shri Ram Chander)

AND

1. Dy. Chief Engineer (Construction)
Uttar Railway, Charbagh
Lucknow.
2. Deputy Chief Manager (Stores)
Northern Railway, Stores Depot
Alambagh, Lucknow.

AWARD

1. By order No. L-41011/117/2009-IR (B-I) dated: 09.11.2010 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangathan Mantri, Uttar Railways Employee Union, 283/63, Kh Gadi Kannora, PO. Manak Nagar, Lucknow and the Dy. Chief Engineer (Construction), Uttar Railway, Charbagh, Lucknow & Deputy Chief Manager (Stores), Northern Railway, Stores Depot, Alambagh, Lucknow to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

"Whether the Action of Management of North Central Railway, Allahabad/Kanpur in not giving Shri Ram Chander, T.No. 449 Status of Temporary Worker from the date of Completion of 120 days of service is Legal and Justified? What relief the workman is Entitled to?"

3. The case of the workman's union, in brief, is that the workman, Ram Chander, has been engaged as casual labour with in construction unit under opposite party No. 1 and is presently working under opposite party No. 2. It has been alleged by the workman's union that the workman under dispute was to be given temporary status after completion of 120 days of working as per P.S. N. 7850, Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway Establishment Manual; but they were granted temporary status after five year's of their engagement, which is not only unfair labour practice but also is against Article 21 of

the Constitution. Accordingly, the workman's union has prayed that the workmen concerned be granted temporary status from the date they have completed 120 days' working with consequential benefits.

4. The management of the North Central Railways has filed its written statement denying the allegations of the workman's union with submission that the workman under dispute was initially engaged by them as Project Casual Labour in Construction Unit with intermittent gap *w.e.f* 24.04.79 and has been granted temporary status on 01.01.85 *vide* letter No.220/E/3/Recruit dated 22/25.02.85. It has been submitted that the railway formulated a scheme to provide the temporary status to Project Casual Labour, circulated *vide* No. E(NG)II/84/CL/41 dated 1.6.84 as per directions of Hon'ble Apex Court in *Inder Pal Yadav & other vs Union of India & others (1985) 2 SCC 648*. The management has submitted that as per modified date of grant of temporary status, the workmen were screened and posted as Gangman and is in fruitful employment of the opposite party for last 20 years, thus raising the present industrial disputes after lapse of 20 long years makes it time barred hence, not maintainable in the eye of law. It is specifically submitted by the management that the workman has been engaged as project casual labour and as per existing Railway Rules 360 days' continuous service is required for grant of temporary status, therefore, the claim of the workman for grant of temporary status after 120 days is not maintainable and liable to be rejected. Accordingly, the management has prayed that the claim of the workman's union be rejected being devoid of any merit.

5. The workman's union has filed its rejoinder wherein apart from reiterating facts already mentioned in the statement claim has submitted that the workman under dispute has not appointed in any project, therefore decision of Hon'ble Apex Court in *Inder Pal Yadav case (supra)* is not applicable on him and he should be granted temporary status after completion of 120 days of service.

6. The workman's union has not filed any documentary evidence in support of its claim; rather it has stated that the Casual Labour Card in respect of the workman and his Service Book, is with the employers, in original.

The management has filed photocopy of Casual Labour Card and Service Book in respect of workman.

7. The Workman's union has examined workman; whereas the management examined Sri Sita Ram Sonkar, APO in support of their claim. The parties availed opportunity to cross-examine the each other's witnesses apart from putting oral arguments as well as written arguments.

8. Heard learned authorized representatives of the parties and perused entire evidence on record.

9. The authorized representative of the workman has contended that the workman was not project casual labour; rather he was casual labour engaged in construction division/unit. Therefore, he was eligible for grant of

temporary status from the date he completed 120 days of service. The railway administration instead treated him as project casual labour and granted him temporary status after lapse of five years which is unfair labour practice. It is also contended that the decisions of the Hon'ble Supreme Court in *Indra Pal Yadav* case (supra) is not applicable on the workman. The workman's union has relied on:

- (i) *Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another* 2008 (116) FLR 1046.
- (ii) *Union of India & others vs. Basant Lal & others* 1992 SCC (L&C) 611.
- (iii) *L. Rebert D'Souza vs Executive Engineer, Southern Railway & another* 1982 SCC (L&S) 124.
- (iv) *N. Balakrishnan vs. M. Krishnamurthy* ACJ 1998 1347 SC.
- (v) *Kuldeep Singh vs. GM. Instrument Design Development and Facilities Centre & another* 2011 (128) FLR 121.
- (vi) *Din Mohammed (Dead) by LRs. Vs Union of India & others* 2002 (92) FLR 1216.
- (vii) *The Union of India & another vs Girja Shankar & others* 2003 (96) FLR 1094.

10. In rebuttal, the authorized representative of the management has contended that the workman has been project casual labour in construction unit and worked with intermittent gap and he was granted temporary status as per Railway Board's letter dated 01.06.84. It has been submitted that the Railway Board *vide* its letter dated 11.09.86 modified the date of temporary status to the workmen in view of decision given by Hon'ble Supreme Court in *Indra Pal Yadav* case (supra). The management has contended that the workman was not entitled for grant of temporary status after completion of 120 days continuous service since he was engaged as project casual labour and as per existing Railway Rules, 360 days' continuous services is required for grant of temporary status to a project casual labour. The authorized representative of the management has also contended that the workman has turned up after lapse of more than 20 years and his cause is not tenable in the eye of law being time barred. The management has relied on *Inder Pal Yadav & others Vs. Union of India* (1985) 2 SCC 648.

11. I have given my thoughtful consideration to the rival submissions of the learned authorized representatives of the parties and scanned entire evidence on record in light thereto.

12. The workman has come up with a case that he has been engaged as casual labour in the Construction Unit of the Dy. Chief Engineer (Construction), Northern Railway, Lucknow and he was entitled for grant of temporary status on completion of 120 days of service under P.S.N. 7850, Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway Establishment Manual; but the management

granted him temporary status after five years' of their appointment, amounting to unfair labour practice. The workman's union has not filed any documentary evidence in support of their case; rather it has pleaded that the same is in power and possession of the Railways.

13. The management of the Northern Railways, rebutting the claim of the workman's union has come up with a clear cut case that the workman had been engaged as Project Casual Labour and accordingly, he was entitled for grant of temporary status on completion of 360 days continuous service; and accordingly, he was granted *vide* Railway Board's letter dated 01.06.84. Later on with decision of Hon'ble Apex Court in *Inder Pal Yadav* case (supra), the date of grant of temporary status was modified *vide* Railways Board's letter dated 11.09.86 whereby the workman were given temporary status from previous date. The management has also stressed upon the factum of delay in raising the present industrial dispute after lapse of more than 20 years. The authorized representative of the management has pointed out that the workman is working with the railways for decades; but neither he preferred any representation, on the issue; nor moved to the court for redressal of his grievances. It is also stressed by the management that the workman has raised the present industrial dispute at a highly belated stage without any explanation to the delay. It has also been argued that though there is no limitation in the I.D. Act, 1947; but the same should not be condoned for the want of any explanation from the workman's union. He has also submitted that the Hon'ble Apex Court in number of its verdicts has observed that Courts should exercise their discretion, judiciously, while condoning the delay.

14. The workman's union adduced evidence of the workman who stated in his cross-examination that he had appointed as casual labour in 15.03.1974 and he was granted temporary status *w.e.f.* in 13.12.82. The workman admitted the photocopy of service record and casual labour card, filed by the management, from paper No. 8/1 to 8/3 & 6/7 to 6/8.

15. The workman has not filed any documentary proof in support of their claim but has relied on the photocopy of the service record and casual labour card of the workman, filed by the management. The service record of the workman shows the entry regarding grant of temporary status to the workman of different dates and there after grant of revised temporary status from different dates as per Railway Board's circular dated 11.9.86. The photocopy of the casual labour card, filed by the management has details regarding working of the workman with permanent Way Inspector (Construction) at different-different stations.

Thus, both the parties have relied on the same set of documents in support of their different stands.

16. After going through the rival pleadings of the parties and documentary and oral evidence relied upon by the parties the bone of contention is as to whether the workman was Project casual labour or just casual labour engaged in

the railway administration. Had they been Project Casual Labour then the action of the management was right and if they were casual labour on the rolls of railways then they ought to have been granted temporary status on completion of 120 days continuous service.

The burden that lied upon the workman's union was to come with the evidence that the workman was engaged as casual labour and he completed 120 days continuous service on this particular date, making him entitled for grant of temporary status. Thus, it was for the workman's union to lead its evidence on two points firstly that the workman was engaged as Casual Labour and secondly that he completed 120 days' of continuous working on such and such date. But the workman failed to comply with the above requirement. As it relied on the documentary evidence *i.e.* casual labour card which was in power and possession of the management for working details; but when the management filed the photocopy of the same then it neither calculated the 120 days' of continuous working from it nor disputed its genuineness. This goes to uphold the stand taken by the management that the workman was Project Casual Labour and accordingly he was granted temporary status on completion of 360 days of continuous working *vide* Railway Board's letter dated 01.06.84 and thereafter granted them revised temporary status from a back date *vide* letter dated 11.09.86 as per guidelines of Hon'ble Apex Court.

17. The workman has relied on *Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another* which pertains to termination of services of a workman in violation of provisions of Section 25F, G & H of the Act. However, the facts of the present case are entirely different; hence not applicable in the present case. The workman has also relied on *Union of India & Others Vs. Basant Lal & others* 1992 SCC (L&S) 611; wherein the Hon'ble Apex Court has held that workman having completed 120 days of working becomes entitled for regularization as temporary worker and the Railway cannot deny them the temporary status on the ground that they had been appointed as casual labour on a project work and not on construction work on open line and as such would acquire the temporary status only after completing 360 days of service. But in the present the workman's union failed to specify the date when the different workmen completed 120 days' of continuous service, rendering them for grant of temporary status. The workman's union has also relied on *L. Robert D'Souza vs Executive Engineer, Southern Railway & another* 1982 SSC (L&S) 124 but the fact of the case law is entirely different from the present case hence not applicable. Likewise the facts of the case law relied upon by the workman in the *Union of India & another Vs. Girja Shankar & others* 2003 (96) FLR 1094, *Kuldeep Singh Vs GM Instrument Design Development and Facilities Centre & another* 2011 (128) FLR 123 and *Din Mhammaed (Dead) by LRs. Vs. Union of India & others* 2002 (992) FLR 1216 are quite different from the facts of the present case hence not appreciable.

18. It is well settled that if a party challenges the legality of an action, the burden lies upon him to prove illegality of the action; and if not evidence is produced, the party invoking jurisdiction of the court fail. In the present case burden was on the workman's union to set out the grounds to challenge the validity of the action of the management in not granting the temporary status to the workman after completion of 120 days' of continuous working. For this the burden of proof was on the workman's union to come with the evidence, that the workman under dispute has been engaged by the management of Railways as casual labour and under rules they were entitled for grant of temporary status from completion of 120 days services with the employers; but the workman's union has failed to discharge the burden that lied upon them. The workman's union made a pleading, to explain the reason why it is not in position to file any documentary evidence before this Tribunal, in their statement of claim of the effect that the relevant document in support of their claim *i.e.* Casual Labour Card is attached in their Service Book. The workman's union in its rejoinder required the management to produce Casual Labour Card in respect of the workman before this Tribunal, resultantly, the management filed photocopy of Casual Labour Card and Services Book in respect of the workman. The workman's union did not dispute the service details filed by the management *i.e.* Casual Labour Card and extracts of Service Book. Therefore, when the management has filed the photocopy of Casual Labour Card as desired by the workman's union then it was incumbent upon the workman's union to come forward and sort out the relevant extract of the Casual Labour Card, which bears working details *i.e.* working period and number of days, to show that the workman completed 120 days of continuous on such and such date and he was entitled for grant of temporary status from such date. But the workman has utterly failed to bring any evidence to the effect before this Tribunal that the workman was engaged as Casual Labour and that the workman was casual labour and it also failed to specify the date as to when the workman completed 120 days' of continuous working, making him eligible for grant of temporary status.

19. On the contrary the management has come with a clear cut case that the workman was engaged as Project Casual Labour with Construction Union. It is also contended by the learned authorized representative of opposite party that there are so many projects which go on with the Construction Unit and the workmen were kept engaged in different Projects. It is also specifically pleaded and proved by the management that the workman was granted temporary status *vide* Railway Board's letter dated 01.06.84; but due to supreme Court's direction in *Indra Pal Yadav Case (supra)*, the Railway Board *vide* its letter dated 11.09.86; changed the date of grant of temporary status, as per modified policy and accordingly, reduced the date of Temporary Status through notice. The management has filed photocopy of Service Record in respect of workman, which bears entries regarding grant of temporary status to the workman.

20. The management has made a specific pleading to the effect that the claim of the workman's union is stale one and time barred as the union has preferred the case before this Tribunal after lapse of more than 20 years. The workman's union in rebuttal has submitted that there is no provision regarding limitation in the Industrial Disputes Act, 1947; hence their claim is maintainable.

In this regard the workman's union has relied on *N. Balakrishnan Vs M. Krishnamurthy* 1998 ACJ 1347; wherein Hon'ble Apex Court while dealing with the matter delay has observed that length of delay does not matter, acceptability of the explanation is the only criterion. But the workman's union has not given any explanation in its pleadings as to what prevented them to raise an industrial dispute at an early state. However, in the evidence it has been stated that the workman/union wrote many letters to the opposite parties and the same are pending with them; although no copy of such letter/representation finds its reference either on record or annexure with the affidavit. Moreover, the management witness *vide* para 9 of his affidavit has denied of submissions of any such application by the workman.

In *Chennai Metropolitan Water Supply and Sewerage Board & other Vs T.T. Murali Babu* 2014 (141) FLR 772, Hon'ble Apex Court has observed as under:

"The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a Constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his won leisure or pleasure, the court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant—a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief to time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring a hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the Court, yet the writ Court chose not to address the same. It is the duty of the Court to scrutinize whether such enormous delay is to be ignored without any justification."

Further, In *Dr. Jawahar Lal Rohatgi Memorial Eye Hospital vs State of U.P. & others* 2013 (138) FLR 11 Hon'ble Allahabad High Court upholding the action of the State Government in denying the making reference of case after 22 years held that it is not expedient for State government to refer order of termination dated 26.6.1982 being old and stale case, where the workman filed an application raising industrial dispute after 22 years in 2004. Hon'ble High Court

observed that there is nothing to indicate as to why the workman could not approach the authority under the ID Act.

Thus, from the face of record it is crystal clear the workman did not bother to approach the management or any legal forum for redressal of his grievances for more than 20 years; and the explanation forwarded by the workman's union before this Tribunal is unsufficient.

21. Hence, from the facts and circumstances of the case and law cited hereinabove; I am of considered opinion that the action of the management of Northern Railway, Lucknow in not giving temporary status to the workman, Shri Ram Chander, from the alleged date of completion of 120 days of service is neither illegal nor unjustified. Accordingly, I come to the conclusion that the workman's union is not entitled to any relief.

22. The reference under adjudication is answered accordingly.

23. Award as above.

LUCKNOW.

22nd September, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1962.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 41/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं० एल-41011/110/2010-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1962.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2011) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow as shown in the Annexure, in the industrial Dispute between the management of Northern Railway and their workman, received by the Central Government on 05/10/2015.

[No. L-41011/110/2010-IR (B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, LUCKNOW**

PRESENT

Rakesh Kumar, Presiding Officer

I.D. No. 41/2011

Ref. No. L-41011/110/2010-IR(B-1) dated: 14.03.2011

BETWEEN

Mandal Sangthan Mantri
Uttar Railway Karmchari Union
283/63 Kh, Garhi Kananora (Premwati Nagar)
PO-Manak Nagar
Lucknow-16
(Espousing cause of Shri Hira Lal)

AND

Senior Divisional Railway Manager (Personnel)
Northern Railway, Hazratganj
Lucknow

AWARD

1. By Order No. L-41011/110/2010-IR(B-1) dated: 14.03.2011 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangthan Mantri, Uttar Railway Karmchari Union, 283/63 Kh, Garhi Kananora (Premwati Nagar), PO—Manak Nagar, Lucknow and Senior Divisional Railway Manager (Personnel), Northern Railway, Hazratganj, Lucknow for adjudication to this CGIT-cum-Labour Court, Lucknow.

2. The reference under adjudication is:

“Whether the demand of the Union regarding placing Shri Hira Lal S/o Shri Kamla Prasad, Assistant Loco Pilot, Loco-shed, Lucknow in the Penal of 1983-84 above his Juniors and grant of pay benefits accordingly is legal and justified? To what relief the union is entitled?”

3. The case of the workman's union, in brief, is that the workman, was appointed as cleaner *w.e.f.* 12.10.1979 and worked as such till 03.09.1981 continuously, when he had been retrenched *w.e.f.* 04.09.1981 illegally. The workman challenged his retrenchment before CGIT-cum-Labour Court, Kanpur in I.D. No. 48/83 and 163/1983 and the Tribunal was pleased to reinstate the workman with back wages from the date of retrenchment *vide* their award dated 19.02.1987 and 25.11.1985. The management challenged the award of CGIT, Kanpur before Hon'ble High Court, which was rejected; likewise the SLP too before Hon'ble Apex Court was rejected; accordingly, the workman was reinstated on 03.08.1983. It is alleged that the management *vide* its order No. 220 E/1-5/Screening/Loco dated 30.08.1991 regularized the workman on the post of Loco Cleaner; whereas it absorbed other junior workmen in the panel for the year 1983-84 on the basis of 120 days working up to 30.09.1981, which is in violation to the provisions of Railway Rules. It is submitted by the workman's union that Shri Amarjeet Singh & Sri Abdul Aziz were also included in the panel for year 1992 but later on included in the panel of year 1983-84 on the orders of Hon'ble CAT, Lucknow. Likewise, other workmen *viz.* Shri Pratap Bahadur & Ahmad Ali, who were earlier included in panel for the year 1992 were included in the panel for year 1983-84 as per order of

this Tribunal. Accordingly, the workman's union has prayed that the name of the workman, be included in the panel of the year 1983-84 which consequential benefits.

4. The management of the railways has filed its written statement, denying the claim of the workman's union and has contended that the workman's union has sought the relief placing the name of the workman in the panel of year 1983-84, which is not permissible because of the seniority of other employees will be effected and they are not arrayed as party in present industrial dispute and if the relief is granted, several other workers may prefer the matter in courts since their seniority shall be affected. The management has specifically submitted that the industrial dispute has been referred after lapse of more than 25 years without any rhyme or reason or any sufficient explanation; and accordingly, the same is liable to be rejected on the point of limitation.

5. The workman's union has filed its rejoinder wherein apart from reiterating facts already mentioned in the statement claim has submitted that there is no limitation provided in the industrial disputes Act, 1947.

6. The parties filed documentary as well as oral evidence in support of their respective case and forwarded oral arguments.

7. Heard learned authorized representatives of the parties at length and perused entire evidence on record.

8. The authorized representative of the workman has contended that since the termination dated 04.09.81 has been held illegal and the workman had been reinstated with consequential benefits, therefore he is entitled for inclusion in the panel of year 1983-84. He has relief upon:

(i) N. Balakrishnan *vs.* M. Krishnamurthy 1998 ACJ 1347.

9. In rebuttal, the authorized representative of the management has contended that the workman was screened and rightly placed in the seniority panel *vide* order dated 30.08.1991. The management has vehemently contended that the workman is not entitled to be included in the panel for the year 1983-84, in as much as the present industrial dispute is time barred and the workman has raised this industrial dispute when he found that some other workmen got benefit from different Court/Tribunals. The management has relief on:

(i) M. Ramakotaiah & Others *vs.* Union of India & Others 2007 (6) AWC 6556 (SC).

10. I have given my thoughtful consideration to the rival contentions of the learned authorized representatives of the parties and scanned the entire evidence available on record.

11. Admittedly, the workman had been terminated *w.e.f.* 04.09.1981 and his termination had been declared to be illegal and was reinstated with back wages by the CGIT-cum-Labour Court, Kanpur. Also, the Hon'ble High Court in writ petition, filed by the management of railways, upheld

the award regarding reinstatement and the management in compliance of award reinstated the workman and paid him back wages. However, the management's contention over the issue referred to this Tribunal is, that the workman was screened and was rightly placed in the seniority panel for 1991 and he is not entitled for inclusion in the panel for year 1983 as he was not in service at that point of time; more so because the present industrial dispute has been raised after lapse of more than 25 years.

12. Thus, the question to be adjudicated is as to whether the workman is entitled to be included in the seniority panel of 1983-84 which was denied to him, consequent upon his termination in the said year? It is admitted fact that the workman was not in service due to illegal termination in the relevant year 1983, when the seniority panel was drawn and his name was not considered. The termination of the workman was quashed by the CGIT-cum-Labour Court, Kanpur and in compliance thereof the management reinstated the workman, treating the termination as non-est and paid back wages in compliance of the order of the Hon'ble High Court.

As per award of the CGIT-cum-Labour Court, Kanpur, the reinstatement order was not qualified one to be given effect to the extent of monetary benefits only. As per settled procedure, logically and legally reinstatement required grant of all service benefits including seniority as if the termination had not taken place. The management complied with the order of reinstatement without giving seniority and released monetary benefits to the workman. On the quashing of termination order, it has to be assumed that the workman was never been terminated and continued to be in service notionally. The effect of the reinstatement is that the workman, would be deemed in service on the last post held on the date of termination. Accordingly, he is entitled for preference over his juniors and to be included in the seniority panel for the year 1983-1984.

13. The management of the railways has come up with a contention that the present industrial dispute is time barred as it has been raised after lapse of more than 25 years. The workman's witness during his cross-examination stated that he moved an application before DRM; but has not filed its copy before this Tribunal. He further, stated that when the management did not act upon his repeated representations, then he raised the present industrial dispute. The authorized representative has contended that the workman has not given any reliable explanation for inordinate delay of 25 years; rather he turned up when the other got successful. He stressed that the order of the Hon'ble CAT, Lucknow Bench, Lucknow in respect of Amarjeet Singh was delivered on 26.04.1993; but the workman has raised present industrial dispute in 2011, without any explanation.

14. The management has relief upon N. Balakrishnan Vs. M. Krishnamurthy 1998 ACJ 1347; wherein Hon'ble Apex Court while dealing with the matter of delay has observed that length of delay does not matter, acceptability of the explanation is the only criterion.

In Chennai Metropolitan Water Supply and Sewerage Board & Other T.T. Murali Babu 2014 (141) FLR 772, Hon'ble Apex Court has observed as under:

"The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a Constitutional Court it has a duty to protect the rights of the citizens but simultaneously. It is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the list at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant—a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring a hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the Court, yet the writ Court chose not to address the same. It is the duty of the Court to scrutinize whether such enormous delay is to be ignored without any justification."

Further, in Dr. Jawahar Lal Rohatgi Memorial Eye Hospital Vs. State of U.P. & Others 2013 (138) FLR 11 Hon'ble Allahabad High Court upholding the action of the State Government in denying the making reference of case after 22 years held that it is not expedient for State Government to refer against order of termination dated 26.6.1982 being old and stale case, where the workman filed an application raising industrial dispute after 22 years in 2004. Hon'ble High Court observed that there is nothing to indicate as to why the workman could not approach the authority under the ID Act. On the issue of delay the workman has tried to explain his delay by pleading that he kept on making representations before the authorities; but in the absence of any copy thereof his contention cannot be relied upon. There is no other explanation about delay.

Thus, from the face of record it is crystal clear that the workman did not bother to approach the management of any legal forum for redressal of his grievances for more than 20 years; and he approached this Tribunal when he come to know about favourable order of courts in similar nature of cases, which points out towards opportunism of the workman. Moreover, the explanation forwarded by the workman's union before this Tribunal is insufficient.

15. In the present case, admittedly there is delay of approximately 20 years as he was screened *vide* order dated 30.08.1991. The workman's union failed to give any logical explanation for this inordinate delay of 20 years. Hon'ble Apex Court in Ajaib Singh Vs. Sirhind Co-operative Marketing-cum-Processing Services Society Ltd. & Another 1999 LAB IC 1435 where there was admitted delay of seven years has held that the Court can mould relief by refusing back wages or directing payment of part of back wages.

16. Thus, from the facts and circumstances of the case and the case laws cited hereinabove, I am of considered opinion that the action of the management of Central Railway in not including the name of the workman in the panel for year 1983-84 was illegal and unjustified. Accordingly, I come to the conclusion that the workman, Sri Hira Lal is entitled for placement in the panel of 1983-1984 above his juniors, subject to his suitability under Rules. He shall be entitled to services benefits under Rules; however, he would be liable for payment of only 1/3rd of back wages, in view of delay in raising the present industrial dispute.

17. The reference under adjudication is answered accordingly.

18. Award as above.

RAKESH KUMAR, Presiding Officer

LUCKNOW.

16th September, 2015.

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1963.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 88/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं० एल-41012/175/2004-आईआर(बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1963.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 88/05) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen, received by the Central Government on 05/10/2015.

[No. L-41012/175/2004-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/88/05

Shri Omprakash
S/o Shri Halke,
Village Sironkalan,
Thana : Jhakhori,
Distt. Lalitpur (MP)

..... Workman

Versus

Divisional Railway Manager,
Central Railway,
Habibganj,
Bhopal (MP)

.... Management

AWARD

Passed on this 5th day of August, 2015

1. As per letter dated 1.9.05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L- 41012/175/2004-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Divisional Railway Manager, W.C. Railway, Bhopal MP instead of regularizing terminating the services of Shri Om Prakash Halke Ex. MRCL who was working during the period from 28.6.80 to 18-7-80 & from 28.9.88 to 3.8.89 is justified and legal? If so, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at pages 3/1 to 3/2. Case of workman is that he was engaged in Railway service first time under PWI(R) Nasik from 26.6.80. He was again working with Non-applicant from 24.9.88 to 18.7.89. He was working continuously and gained temporary status. Workman was medically examined and he passed in C-1. After his medical examination, applicant was due as regular employee. Without issuing any notice, his services were arbitrarily retrenched instead of regularization in service. The procedure for retrenchment was not followed.

3. Workman further submits that due to recruitment of card holders employees he had submitted his form for reinstatement. It was rejected on 6.9.04 on the ground of verification from concerned department. Workman was declared disqualified for screening by the Committee. Being aggrieved by rejection as per order dated 6.10.04, workman raised dispute under reference.

4. 2nd party filed Written Statement opposing claim of workman. 2nd party contents that workman is praying reinstatement with backwages. His claim is not covered under 3rd schedule of Section 7 of ID Act. The reference is not tenable. Applicant himself admitted in medical examination found fit in Category "C". The medical category for gangman is B-1. The claim from reinstatement of workman is not sustainable. It is further submitted that workman himself absented from work. Workman was not recruited. His case was not represented within time. The dispute is raised after lapse of 15 years is barred by limitation. It is denied that workman was represented by

2nd party. On medical examination, workman was found fit in C-1 Category. He is not fit for gangman. That workman had failed to submit his application through concerned department. He was originally engaged as casual labour. Service card was issued. His application was rejected by Scrutiny Committee. As dispute is raised after 15 years, the verification of service particulars is not possible. Workman was not terminated, he himself left the job. The order of rejection of application is correctly issued by Scrutiny Committee. The claim of workman cannot be allowed.

5. Workman filed rejoinder reiterating his contentions in the Statement of claim.

6. Considering pleadings on record, the points which arise for any consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

"(i) Whether the action of the Management of Divisional Railway Manager, W.C. Railway, Bhopal MP instead of regularizing terminating the services of Shri Om Prakash Halke Ex. MRCL who was working during the period from 28.6.80 to 18-7-80 & from 28.9.88 to 3.8.89 is legal?"	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled any relief.

REASONS

7. The terms of reference pertains to legality of termination of service of workman, claim of workman about his reinstatement submitting application is beyond the terms of reference. Workman did not adduce evidence in support of his claim. His evidence was closed on 13.12.2013.

8. Management's witness Shri Chandra Prakash Yadav filed affidavit of his evidence supporting contentions of 2nd Party in Written Statement. Management's witness says that dispute raised after 15 years is not tenable. The on medical examination, workman was found fit in C-1 Category whereas medical category of Gangman is B-1. Workman did not qualify in B-1 Category is not qualified for appointment as gangman. That workman left job in the year 1989. He approached for further recruitment after lapse of 15 years. Workman was negligent in redressing his grievances. Workman failed to produce his application through concerned department where he was originally engaged as casual labour, service card was issued. Workman was not terminated by Railway Administration. Workman himself left the job. He failed to submit verified form for appointment. In his cross-examination, management's

witness says date of 1st appointment of workman is not written in his affidavit. Notice was not issued to workman regarding his absence from duty. Public notice was not issued. Management's witness claims ignorance whether any enquiry was conducted against workman in 1989, he was posted at Ganj Basoda. He was not posted at Vidisha in 1989. He was working as PWI, South Vidisha in November 2012. Workman was found fit in C-1 Category. Post of workshop khalasi is covered in C-1 category. Alternate job is provided to regular employee not found fit. Alternate job is provided in lower category. The terms of reference does not pertain to alternate job or reappointment of workman on rejection of application.

9. Workman has not adduced evidence to substantiate his claim. The dispute is raised after 15 years is highly belated. For long lapse of time, the dispute relating to alleged termination of workman seized to exist.

10. Counsel for management submitted written notes of argument. The citations are also submitted in Case of Manager, Reserve Bank of India, Bangalore *Versus* S. Mani and Others reported in 2005(5)SCC-100. Their Lordship dealing with Section 25-F, N of I.D. Act, it was held 240 days continuous service rendered by temporary workman the effect is status to which workman restored on reinstatement for non-compliance of Section 25-F. 240 days continuous service does not by itself give rise to a claim of permanence. The direction for reinstatement for non-compliance of Section 25-F would only restore to the workman the same status which he held when his services were terminated. It is further held that onus and burden of proof with respect to 240 days continuous service. Failure of employer to prove a defence if sufficient or amounted to an admission, discharging the said burden. Initial burden of proof is on workman to show that he completed 240 days service.

In present case, workman has not adduced evidence to discharge the burden. For above reasons, I record my finding in Point No. 1 in Affirmative.

11. In the result, award is passed as under:—

- (1) The action of the management of Divisional Railway Manager, W.C. Railway, Bhopal MP instead of regularizing termination the services of Shri Om Prakash Halke Ex. MRCL who was working during the period from 28-6-80 to 18-7-80 and from 28-9-88 to 3-8-89 is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1964.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद के पंचाट (संदर्भ सं० 8/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं० एल-12012/59/2009-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1964.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 8/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 1 Dhanbad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 05/10/2015.

[No.L-12012/59/2009-IR(B-1)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of
I.D. Act, 1947

Ref. No. 8 of 2011

Employer in relation to the management of
State Bank of India, Dhanbad

And

Their Workmen.

Present :

Sri Ranjan Kumar Saran, Presiding Officer

Appearances :

For the Employers:- None

For the workman: - Sri Kapildeo Sharma, Concerned
workman

State : Jharkhand

Industry:- Banking

Dated: 28-8-2015

AWARD

By Order No. L-12012/59/2009-1R (B-1), dated 02/02/2011, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of State Bank of India, in terminating service of Shri Kapil deo

Sharma, water boy w.e.f. 08/10/2004 is legal and justified? To what relief the workman is entitled?"

2. This case is received from the Ministry of Labour & Employment on 08.04.2011. After receipt of reference, both parties are noticed. The workman files their written statement on 19.04.2011. But the management neither appear nor files any written statement in spite of regd. Notice being sent. Hence Exparte argument heard. The workman himself files many document, which relates to management of SBI, marked as Ext. M-1 to M-4.

3. The workman's case is that the workman concerned was appointed as water boy on a monthly remuneration of Rs. 900/- w.e.f. 28/02/1991 by the management of State Bank of India, Dhanbad Branch and he worked continuously till 07/10/2004, and has been receiving his remuneration for the same at the prevailing rate which has subject to revision from time to time. He has also stated that he was working from 28.2.1991 and completed more than 240 days attendance in one calendar year. Before terminating the service of workman the management not issued any notice u/s 25 F of I.D. Act nor paid him any retrenchment compensation. Hence his termination be treated illegal and unjustified.

4. The short point involved in this reference is that, whether the termination of the workman is just and proper or not. The workman have been terminated by the management without assigning any rhyme or reason.

5. The workman who is a bank employee joined as daily wager w.e.f. 28.2.1991. But after working for a long period, he claims for regularization as well as increase his remuneration for which his service was termmanted.

6. The workman said that he is still job less and his case is not forwarded for consideration and kept under carpet. The workman files series of document, that he was working continuously. In spite due notice the Bank management neither appeared nor have his say. Hence Tribunal proceeds on the basis of material produced on the record.

7. The workman files appointment letter, and he has also files letter of State Bank of India. letter No. 21/1585 dated 02.03.1998, Marked as Ext. W-2, in which Asstt. General management submits that as per letter of Head Office Letter No. CDO No. PER/940/4097 dated 8th Nov. 1997, he forwarded the name of Sri Kapildeo Sharma, concerned workman to the higher authority for his absorption as he completed 240 days in one calender year. It reveals that the concerned workman competed 240 days in twelve calender month against vacancies and he worked during leave/ transfer/ promotion/retirement/death etc of permanent employee.

8. Considering the facts and circumstances of this case, and perusing the letter of the management, the termination

of Shree Kapildeo Sharma in our opinion is not legal and justified. Hence this Tribunal orders the workman be taken immediately as daily wager, and be saved from starvation, and the management is also directed to regularize him in any lowest grade within 6 months from the date of publication of the award in Gazette of India in any branch of SBI, Dhanbad District or Bokaro District.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1965.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचाट (संदर्भ सं० 266/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं० एल-12012/252/2001-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1965.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 266/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 05/10/2015.

[No. L-12012/252/2001-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10(1) (d) (2A) of
I.D. Act, 1947.

Reference No. 266 of 2001

Employer in relation to the management of
State Bank of India, Bhagalpur

And

Their workman

Present :

Sri R.K.Saran, Presiding Officer

Appearances:

For the Employers :- Shree S.N. Goswami, Advocate.

For the Workman :- Shree D.S. Sinha, Advocate

State:- Jharkhand.

Industry :- Banking.

Dated 17-8-2015

AWARD

By Order No.-L-12012/252/2001 IR-(B-1), dated 26/11/2001, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the workman Sri Priyadarshi Ashok had worked with State Bank of India, Sikandra Branch, Distt- Jamui between 01.07.1985 to 25th August 1999 as Messenger? If so the action of the management in terminating the service of the applicant w.e.f. 25th August 1999 is justified? If not what relief the workman is entitled?"

2. The case is received from the Ministry of Labour on 10.12.2001. After receipt of reference, both parties are noticed. The workman files their written statement on 12.07.2005. After long delay the management files their written statement-cum-rejoinder on 02.11.2012. Three witnesses on behalf of the workman are examined and documents marked as W-1 to W15.

3. The case of the workman is that the concerned workman was appointed to the post of messenger in subordinate cadre in the month of July 1985. The services of the workman was also utilised for clerical job but he was being paid daily wages continuously from 1985 to 1999. So he claimed to be reinstated against permanent vacancy.

4. Case of the management is that Sri Priyadarshi Ashok was firstly engaged in Bank on 01.08.1985 as daily wager. To meet the need as because of shortage of Subordinate staff at the Branch to do the jobs of sundry works as water Boy-cum- messenger dispatching/ delivery of Banks Dak / letters and he was paid Rs. 25/- per day thereafter Rs. 35/- per day through Banks Cheque and sometimes by credit to his S.B Account as and when required.

5. The workman was engaged by the Branch Manager of S.B.I. as a messenger. There is enough material to show the workman worked under the Bank as casual employee on wage. There is prove that the workman completed 240 days, in a calendar year and prays for regularisation. But when the workman prays for regularisation, the management did not to regularise him and terminate the service of workman. Subsequently the workman is died soon after losing the service.

6. For the regularisation of the workman the Branch Manager has written several times to the higher officer and the same is regretted without any reason.

7. As per Ext. W-2 the workman worked 277 days in 1986, which is the certificate of temporary service on daily wages issued by the S.B.I. Management.

8. As per Ext. W-12, which is also management document, in which management is submitted that he is

used as permanent employee and he has access to all books. He has paid wages for every Sunday and holiday. Many document marked which is issued by the management, in which management has instructed, the he is an assets of the bank, not to be retrenched.

9. Considering the facts and circumstances it is revealed, that the management even not complied 25 F which ought to be complied prior to retrenching the workman. In the meantime, the workman concerned has died and his wife is substituted.

10. The wife of the deceased urged for relief. Since the workman rendered service to the Bank for a long period as well as more than 240 day in a year. The widow of the workman be given work as a casual employee, as his husband was working in the bank, with the prevalent wage structure soon after the publication of this award in the Official Gazette.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1966.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं जबलपुर के पंचाट (संदर्भ सं० 47/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 05.10.2015 को प्राप्त हुआ था।

[सं० एल-41012/65/2010-आईआर(बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1966.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Paschim Madhya Railway and their workmen, which was received by the Central Government on 05.10.2015.

[No. L-41012/65/2010-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/47/2010

Shri Sourabha Mehroliya,
S/o Shri Govind Mehroliya
R/o Rly. Bunglow No. 158-A,
Servant Quarter, South Civil Lines,
Jabalpur.

...Workman

Versus

General Manager,
Paschim Madhya Railway,
Jabalpur.

...Management

AWARD

Passed on this 2nd day of September 2015

1. As per letter dated 23-9-2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/65/2010-IR (B-I). The dispute under reference relates to:

"Whether the action of the General Manager, Paschim Madhya Railway, Jabalpur(MP) in terminating the services of Shri Sourabh Mehroliya S/o Shri Govind Meroliya *w.e.f.* 24-9-09 is legal and justified? If not, what relief he is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim. Case of Ist party workman is that he was appointed as substitute Bunglow peon in pay-scale 2550-3200 with approval of General Manager of WCL on 24-10-07. His date of birth is 5-8-89, educational qualification is 8th standard pass in General Category. That his appointment is purely temporary Workman was eligible for regular absorption in Group D after completion of 3 years service. The appointment was provisional subject to verification of character and antecedent. As per Railway Board's letter dated 31-12-03, his services were covered under contributory pension Scheme. Workman had passed medical examination under Category A-II by Medical Certificate dated 15-10-07. Workman joined service on 25-10-07 and drawing salary in said scale. That he was regular in service. He was served with warning that he was not regular in his work and not performing house hold work, remaining absent from duty as per letter dated 6-8-09. Another warning was received *vide* letter dated 17-8-09. Workman submitting his explanation claimed that he was regular in performing his duty. That workman was not allowed on duty from 18-8-09. He had requested General Manager but nothing was done. Any action was not taken on his request. As per order dated 24-09-09 by Vigilance Department, his services were terminated on the ground that despite warning letters, he did not improve his habits. That substitute Bunglow Peon requires 3 years regular service for eligibility to be absorbed as peon in regular service Grade D. That 15 days notice has been served on him and 15 days salary before terminating his services by Dy. Chief Engineer Officer III.

3. After receiving termination order, workman submitted representation which was not considered. Workman had put 1 year 11 months 1 day regular service. The warning letters issued to him is pre-determined planning to terminate his service before completing 3 years service for eligibility for absorption. Such practice is illegal.

4. That workman was issued privilege pass of 2nd class dated 21-08-09 from Mumbai to Howrah valid till 21-12-09. The substitute peon are engaged in regular pay-scale in short-term vacancy. A panel of suitable persons used to be drawn available with subordinates for engaging them. That after completion of 120 days continuous service, he is entitled to temporary status. Benefit of medical treatment or self was eligible for the workman. The substitute pen is also entitled to benefit of usual increments, on completion of 1 year service. Ist party workman prays that as per terms and conditions specified in appointment letter. Workman could have been issued chargesheet as per Discipline Appeal Rules 1960. No chargesheet was issued to workman. As per Article 311, no civil servant shall be removed or dismissed from service or reduce in rank without any inquiry. Workman submits that principles of natural justice were not followed. He was not given reasonable opportunity issuing chargesheet. Termination of his service is in violation of provisions of ID Act. On such ground, workman prays for withdrawal of termination order dated 24-09-09 and his reinstatement.

5. 2nd party filed written Statement opposing claim of the workman. The appointment of workman as Bunglow Peon is not denied. Workman remained absent for considerable period without satisfactory reasons. Workman was not appointed as regular peon. He willfully disobeyed service conditions. The warnings were issued to him. Workman failed to comply with his duty. His services were terminated by Competent Authority following due process. The representations of workman were not received. Workman was not sincere. His performance in service as bunglow peon was not satisfactory. Workman himself failed to provide substitution allowance as per policy for recruitment in department.

6. Workman filed rejoinder reiterating his contentions in statement of claim alleging that Written Statement filed by management is devoid. That order was issued for termination of his service and not paid to retrenchment. Section 25-F(a,b) were not followed. One months notice or salary for one month was not paid to workman. Retrenchment Compensation was also not paid to him. Any enquiry was not conducted against him. Documents of enquiry were not provided to the workman.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the General Manager, Paschim Madhya Railway, Jabalpur(MP) in terminaing the services of Shri Sourabh Mehroliya S/o Shri Govind Mehroliya <i>w.e.f.</i> 24-9-09 is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

8. There is no dispute between parties that workman was appointed as substitute peon. Warnings were issued to Workman. workman filed affidavit of his evidence. He was stated that he was appointed on 24-10-07 with approval of Competent authority as Bunglow peon. He worked with honesty. He was appointed in pay Scale Rs. 2250-3200. That his services were terminated on imaginary ground by Dy. Chief Engineer Officer III is illegal. That after completion of 120 days, he is eligible for temporary status. Without giving any opportunity of hearing, his services were terminated illegally. From evidence of workman, documents Exhibit W-1 to W-10 are exhibited. Workman in his cross-examination says he passed 8th standard. The post was not advertised. He was working with Shri Virendra Kumar since 2 years prior to his appointment as substitute peon. He had not submitted application for his appointment. Shri Virendra Kumar had made efforts for his appointment. Appointment letter was received by him. He was working at Bunglow peon, doing all kind of work including labour. That warning letter Exhibit W-4 was issued to him for absence from duty is wrong. Exhibit W-7 dose not bear the date. Said letter also doesnot bear acknowledgement of the person receiving it. Exhibit W-10 does not bear his signature. He denies that he has not completed 3 years service.

9. Management filed affidavit of witness Shri R.K. Swami. The witness of management says services of workman were terminated. Workman was irregular in his duty. His work was unsatisfactory. Dy Chief Vigilance Officer terminated workman following procedure. In his cross-examination, witness of management admits that on Exhibit W-1, on behalf of Chief Personnel Officer, it is signed by Asstt. Personnel Officer. He denies suggestion that Appointing Authority of workman is General Manager. He claims that he was competent to terminate services of workman.

10. Management's witness Shri Virendra Kumar in his affidavit of evidence says that in 2007, workman was engaged as substitute Bunglow Peon. Workman was irregular in duty. His work was unsatisfactory. Workman was orally warned but he failed to fulfil requirement of service. That workman is not entitled to protection of Section 25-F of ID Act. From his evidence, Exhibit W-2 is proved. Management's witness in his cross-examination says no record is maintained about warning issued to workman. He was unable to tell its date. Along with retrenchment notice, amount of 15 days salary was sent to workman. The warning letter dated 6-8-09 was given by him. The record about irregular attendance of workman was maintained in Engineering Deptt. Exhibit M-3, 2nd part of record of attendance is not available. Workman was retrenched, he was not promoted.

11. Learned counsel for workman Mr. Pandiya during course of argument pointed out my attention that appointment letter Exhibit W-1 is issued by Chief Personnel Officer. Termination order Exhibit W-6 is signed by Dy.

Chief Vigilance Officer, Authority lower than rank to the Appointing Authority. Document Exhibit W-6 is not issued by Appointing Authority, Chief personnel Officer rather it is issued by Dy. Chief Vigilance Officer III. No documents are produced that Dy. Chief Vigilance Officer was of equal rank to the Appointing Officer, Chief Personnel Officer and he was as such competent to terminate services of workman. In Exhibit W-6 termination order, workman was informed that for retrenchment, 15 days salary would be paid. Amount was not actually paid to workman. The cheque was not accompanied with the order. The amount is not specified. As such termination of workman by Authority other than Appointing Authority cannot be said legal. Workman was not paid retrenchment compensation mentioned in Exhibit W-6. These rules about substituted employees are produced. The rules provides that after completion of 120 days continuous service, casual labour is entitled to temporary status, he is entitled for benefit of medical treatment, educational benefits after completing 4 months continuous service. On completion of one year service from date of acquiring temporary status entitled to annual increments. Workman had completed 120 days service, he was eligible for temporary status after acquiring temporary status, the services of workman could not be terminated without enquiry. Warning letters issued to workman is produced at Exhibit W-4. Services of workman are terminated for unsatisfactory work which could be said misconduct but no enquiry was conducted. As per Exhibit M-1, appointment of service condition of bungalow peon are produced. Officers entitled to bungalow peon are allowed to pick up candidates in whom they have trust. Candidate should be 18-25 years of age, should be literate, should be declared medically fit. Substitutes should be appointed on monthly rate of pay Rs. 7-80. Clause VII of Exhibit M-1 clearly provides that bungalow peon who has not completed 3 years service can be terminated without assigning reason either on transfer of the Officer to who he is attached after giving him notice, compensation admissible under rules. Workman was not paid retrenchment compensation though he had completed 1 year 11 months services. Only 15 days wages were paid. It was also not paid along with termination order. Documents produced by management about attendance of workman shows he was absent for 27 days in 2003, 60 days in 2007 to 2010, 13 days in 2003. The period of absence of workman after his appointment was only 4 days. As per documents produced by management, workman was paid salary in pay scale 2500-20200(M-2). From reasons discussed above, it is clear that workman was terminated in violation of Section 25-F. He was not paid retrenchment compensation, 15 days salary was also not sent to workman along with termination order. The termination of workman is illegal. For above reasons, I record my finding in Point No. 1 in Negative.

12. **Point No. 2.** In view of my finding in Point No. 1 workman is termination illegally by authority other than appointing authority in violation of Section 25-F, of ID Act, question is whether workman is entitled for reinstatement.

Workman had completed 1 year 11 months service, he was appointed as substitute peon on completion of 3 years continuous service. Workman would be eligible for absorption as bungalow peon. Whether in context of above facts, reinstatement with backwages could be allowed, it needs to be considered. The written notes of arguments submitted by counsel for both parties do not cover above aspect. Learned counsel for workman produced copy of Award in R/178/97 passed by my predecessor. Said reference also pertains to termination of service of substituted Khalasi. Reinstatement of workman with backwages was allowed. As the rules provides eligibility for workman for absorption as regular peon on completion of 3 years service. The evidence of workman that he was working with Shri Virendra Kumar 2 years prior to his appointment as substitute peon, workman has worked for vital years of his young age if reinstatement is not allowed, he will lose opportunity for absorption as regular peon. Reinstatement of workman with backwages would be appropriate. Accordingly I record my finding in Point No. 2.

13. In the result, award is passed as under:—

- (1) The action of the General Manager, Paschim Madhya Railway, Jabalpur (MP) in terminating the services of Shri Sourabh Mehroliya S/o Shri Govind Mehroliya w.e.f. 24-9-09 is not proper and legal.
- (2) 2nd party is directed to reinstate workman with backwages. Parties to bear their respective costs.

R.B. PATLE, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1967.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सतपुरा नर्मदा ग्रामीण क्षेत्रीय बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 111/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं. एल-12012/40/2007-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1967.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 111/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Satpura Narmada Gramin Kshetriya Bank and their workmen, received by the Central Government on 05/10/2015.

[No. L-12012/40/2007-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/111/2007**

Shri Nand Kishore Belkhede,
R/o Vill & PO Goreghat,
Tehsil Katangi,
Distt. Balaghat (MP),
Balaghat

...Workman

Versus

The Chairman,
Satpura Narmada Gramin Kshetriya Bank,
Distt. Chhindwara

...Management

AWARD

Passed on this 31st day of August 2015

1. As per letter dated 25.9.07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/40/2007-IR (B-I). The dispute under reference relates to:

"Whether the action of Chairman, Satpura Kshetriya Gramin Bank, Chhindwara in terminating the services of Shri Nand Kishore Belkhede without departmental proceeding, is legal and justified? If not, to what relief the workman concerned is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3. Case of Ist party workman is that he was engaged as peon cum messenger by Branch Manager Goreghat branch on 14-5-90. Thereafter he was posted in Katangi branch. He rendered his services in said branch till 27-11-03. That he was engaged on vacant sanctioned post after following due process by 2nd party No. 2. He rendered his services diligently for more than a decade. That he was eligible for regularization of post of messenger cum peon considering his long continuous service. Workman had submitted representations to the Bank for regularization but were of no avail. Workman had filed Writ petition 1095/02 before Hon'ble High Court, MP Jabalpur. The Writ Petition was disposed off on 20-3-02 allowing opportunity to raise his grievance before appropriate forum. Workman raised dispute through Union before conciliation authority under ID Act. During pendency of conciliation proceeding before ALC, Chhindwara, his services were dispensed with from 27-11-03 by the Bank without issuing order in writing. He was not served with notice or compensation in lieu of notice was not paid to him.

3. Ist party workman reiterates that he completed more than 240 days continuous service. He is covered as

employee under Section 25 B of ID Act. The respondent Bank failed to follow guidelines and scheme for regularization of daily wage employees completing 240 days service in a calendar year *i.e.* circular issued by NABARD dated 7-5-87 and circular by RBI dated 8-10-84. The case of Ist party workman as well as co-employee was put up by Union before Bank for implementation of above circular for regularization. Despite of agreement was raised upon between Union and Bank for unknown reasons. 2nd party Bank denied to implement the same. Letter dated 20-3-94 is relied. It is alleged that Bank despite need of regular staff on post of messenger cum peon adopted unfair labour practice de hors the principles of natural justice. In violation of Section 33(C) of ID Act, services of workman were terminated without notice. 2nd party continued practice of pick and choose the daily rated employees at their whims and fancies. 2nd party Bank violated section 25-F, G, H of ID Act as juniors to the workmen were retained in service even after discontinuation of service of Ist party workman. It is alleged that after discontinuing workman, other fresh persons were appointed in place of daily wagers. Policy of last come first go was not followed. Workman should have been given preference over others in case of new recruitment. The sponsored Bank of 2nd party Central Bank of India issued directions to all branches on 16-2-90 directing them to provide information of all daily wage employees who have completed 240 days continuous service in 12 months during the period 1-1-82 to 31-3-95 by Regional Office, Chhindwara. The direction was not complied. It is reiterated that during pendency of conciliation proceedings pertaining to regularization of services, workman was discontinued by the Bank in arbitrary manner. The board of directors taken decision to discharge services of employees during pendency of conciliation proceedings *vide* communication dated 20-11-03. Workman further submits that since his initial employment from 14-5-90 till 27-11-03, PF amount was deducted from his wages. The deduction of PF wages of workman clearly indicates that he worked more than 240 days in a calendar year. His services are terminated illegally. On such ground, workman prays for his reinstatement with full backwages.

4. 2nd party filed Written Statement opposing claim of workman. 2nd raised preliminary objection that workman has committed theft of documents. All the documents relied by workman are denied. That Ist party is not workman he was never appointed by the management he was not sponsored through Employment Exchange. He did not undergo process of selection. The board has not sanctioned any such post. 2nd party has no policy to appoint any person contrary to the norms and rules their relationship of master servant between parties is denied. It is denied that workman was engaged by Branch Manager, Goreghat branch, Distt. Balaghat as peon cum messenger. It is denied that workman was transferred to Katangi branch and has rendered continuous service from 14-5-90 to

27-11-03. It is denied that workman was engaged on vacant sanctioned post following due process. It is reiterated that workman has not completed 240 days continuous service during any of the calendar year. He is not covered as employee under Section 25 B of ID Act. 2nd party denies that despite need of regular staff, the post of messenger cum peon, the Bank adopted unfair labour practice. It is denied that services of workman are dispensed with in violation of provisions of ID Act. It is submitted that provisions of ID Act are not applicable to present case. Termination of services of workman in violation of Section 25-F, G, H, of ID Act is denied. That temporary need in the Bank depends on casual work which is fulfilled by any person who offers his service for required period. The principles of policy of last come first go is not attracted in the matter.

5. 2nd party denied that any circulars for regularization to temporary employee has been issued. Appointment of workman is denied. That deduction of PF is in compliance of provisions under PF Act. The prayer of workman is opposed. It is submitted that workman is not entitled to any relief.

6. Ist party workman filed rejoinder reiterating his contentions in statement of claim.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of Chairman, Satpura Kshetriya Gramin Bank, Chhindwara in terminating the services of Shri Nand Kishore Belkhede without departmental proceedings is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

8. Workman is challenging discontinuation of his service in violation of Section 25-F of ID Act. In support of his claim, workman filed affidavit of his evidence. Workman says that he was engaged as sweeper cum messenger from 2-4-90 in branch mate, Tehsil Kirnapur by Branch Manager on vacant post. He worked in Goreghat branch from 14-5-90 to 15-11-94. He worked more than 240 days in each calendar year from 16-11-94 to 26-11-03, he continuously worked more than 240 days during each of the year. His services were terminated without notice, he was not paid retrenchment compensation. He raised dispute for regularization of his service. During pendency of conciliation proceedings, his services were discontinued. After termination of his services, other daily wage

employees were engaged by the Bank he was not given re-employment. He was paid wages at Collector rate Rs. 82.77 per day. 12% amount of wages was deducted towards PF during the year 1999 to 2003. In his cross-examination, workman says appointment letter was not given to him, the post was not advertised. He has not produced certificate of working, payment vouchers, pass book. He denied that he had not worked for more than 240 days during any of the year. The certificate of working days is not produced. Other employee was not engaged after his disengagement. He produced documents about deduction of PF. He was paid wages for his working days. The documents Exhibit W-3 (a) to (c) are admitted from his evidence in cross-examination. He has no other documents.

9. Managements's witness Snehlata Jaiswal filed affidavit of her evidence denying workman was appointed on vacant post as messenger on 14-5-90 in Gorighat branch. That workman had not worked in said branch during May 90 to October 94. Workman never worked for 240 days during any of the year. Ist party workman is not employee of the Bank. There was no question of issuing notice or payment of compensation to him, she has further stated that whenever any casual work occurs any person including applicant is available comes, Bank offers to do casual work. On completion of such casual work, his services automatically comes to end. In her cross-examination, management's witness says she did not work in either of the branches at any time. She was working in control office during 1983 to 94. The witness of the management was unable to tell whether PF was deducted, she was unable to tell whether workman had account no. 884 in the branch and his wages were deposited in said account. She claims ignorance whether Head Office call details about casual labours working in the branch. Casual labour was engaged as per need. Entries of payment under voucher was recorded in cash scroll. She has not seen cash scroll. Suggestion is denied that workman had worked more than 240 days. Evidence of management's witness is hearsay and evidence of workman is supported by document Exhibit 3(a) to (g). That he filed affidavit in this case as per information forwarded by Branch Manager. The Branch Managers are in service. Workman was not employee of the Bank. He was not paid retrenchment compensation. No chargesheet was issued to him for any misconduct. She claims ignorance whether some employees are reinstated in service as per order passed by Hon'ble High Court. From cross-examination of management's witness, it is clear that she was not working in the branch. She gave evidence as per information received by Branch Manager. She has no personal knowledge.

10. Workman has produced documents. Exhibit W-1 settlement between Union and management of the Bank dated 20-3-94. Exhibit W-2 refers to Board of Directors decision to terminate immediately daily wage employees. Documents Exhibit W-3(a) to (g) shows payment of wages

to workman during 1990 to 1993. Other documents produced by workman are not proved by valid evidence.

11. The question arise about evidence of workman and management's witness. As discussed above, the management's witness has no personal knowledge. Her evidence is based on information received from Branch Manager who are still working in the branch. The documents maintained in the Bank payment register, AC statement, etc. which are maintained by the Bank are not produced. On the other hand, evidence of workman is corroborated from documents Exhibit W-3 (a) to (g).

12. The evidence of workman in cross-examination shows that workman has not produced documents about his working for 240 days. After discontinuation of his service, other persons engaged on daily wages. The documents relating to it are not produced. The deduction of PF of workman is shown as Exhibit W-3 (a) to (g) is indicative that the workman was working with 2nd party was covered under provisions of PF Act. The management's witness in her cross-examination says she doesnot mean that workman was never working in the Bank. In cross-examination of workman, there is no suggestion that workman was not working with Bank or he had not completed 240 days continuous service as stated in his affidavit. Evidence of workman on above point remained unchallenged in his cross-examination. Evidence of workman is supported by some documents Exhibit W-3 (a) to (g) and his evidence remained unchallenged on the point he had worked than 240 days during any of the year. The evidence of management's witness is silent as to who was working as regular sweeper in the Bank. I find no reason to disbelieve workman that he was continously working in the Bank from 1990 to 2003. Evidence of workman is about completing more than 240 days continuous service finds corroboration from document Exhibit W-2. As per settlement Exhibit W-1, the process for regularization of part time employee, part time farrash was started and it was not to be completed till 5-4-94 as per the circulars issued by NABARD dated 7-5-87, circular issued by RBI 8-10-84. 2nd party has not produced those circulars. The evidence of management's witness is clear that workman was not served with notice. Retrenchment compensation was not paid to him, services of workman are terminated without violation of Section 25-F of ID Act.

13. Learned counsel for Ist party Shri A.K. Shashi relies on ratio held in case of

Maharashtra State Board of Secondary and Higher Secondary Education, Amravati and another versus Sanjay Krishnarao Shrugare Amravati reported in 2008-II-CLR-301. Their Lordship dealing with Section 25-F, G, H of ID Act in case related to unfair labour practice under Maharashtra Act held that best possible evidence on the point of total service put I by the respondents not brought on record by the appellant. Appellant has to blame itself

for this failure on its part. The Labour Judge and the Industrial Court did not err in drawing their conclusions.

In present case, though management's witness admits the record of various files is maintained in the Bank. It is not produced. It appear that management is suppressing the material evidence. From above reasons, it is clear that services of Ist party workman are terminated in violation of Section 25-F of ID Act. Therefore I record my finding in Point No. 1 in Negative.

14. Point No. 2-In view of my finding in Point No. 1 termination of Ist party is in violation of Section 25-F of ID Act, question remains for consideration whether workman is entitled for reinstatement with backwages. Though workman in his pleadings and evidence has referred to the circulars issued by NABARD and RBI relating to regulation of part time employees, those circulars are not produced on record, the term of reference pertain to regularization of workman rather it pertains to legality of termination of his service. From reasons dealing with Point No. 1, it is clear that Ist party workman was working continuously with 2nd party as peon/sweeper from 1990 to 2003 for about 12-13 years but post was not advertised. Workman was not issued appointment letter. Workman was engaged on daily wages.

As per Exhibit W-2, 54 part time employees were working against sanctioned post for long period. The advice of General Manager was requested by the Chairman. Point *w.r.t.* the relief for reinstatement with backwages, Shri A.K. Shashi counsel for workman pointed out my attention to the award passed in R/88/2001 & R/9/2to 17/12 & 1/13. Considering ratio held in various cases, in Para 28 of the award, it was observed that workman have worked for different period. The reinstatement with backwages is not automatic. The facts of each case needs to be considered. Workman who worked more than 2 years and workman working between 4-7 years needs different consideration. Workman who have completed 10 years service for long time deserves reinstatement. Workman working more than 7 years deserve compensation Rs. 50,000/- workman working about 4 years deserves compensation Rs. One Lakh. Same principle would be applied while dealing with the claim for reinstatement by workman. Workman was working with the 2nd party from 1990 to 2003 for about 13 years justified his claim for reinstatement.

15. Learned counsel for 2nd party Shri Pramesh Jain submitted written notes of argument opposing claim of workman for reinstatement that workman had not completed 240 days continuous service. Learned counsel relies on ratio held in

Case of BSNL versus Bhurumal reported in Civil Appeal No. 10957/2013. In Para 24 of the judgment, their Lordship considering ratio held in case of State of Karnataka *versus* Uma Devi 2006(4) SCC-1 observed thus when he cannot

claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself in as much as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay.

In Exhibit W-1, Union and management had arrived at settlement of regularization of part time employees on 15-6-94. In Exhibit W-2 Chairman of the Bank has requested advice of General Manager that 54 part time employees were working in the Bank since long against sanctioned post. The ratio in above cited case cannot be applied to case at hand as the facts are not comparable.

Learned counsel for 2nd party Shri Pramesh Jain also relies on ratio held in case of Tapash Kumar *versus* BSNL reported in 204A?IR SCW 5816. Their Lordship have considered when reinstatement can be ordered. The order of Division Bench awarding compensation in lieu of reinstatement was set aside. In para-5 of the judgment, their Lordship held it is no doubt true that Court may pass an order substituting reinstatement by awarding compensation but the same has to be based on justifiable ground *i.e.* (i) where the industry is closed, (ii) where the employee has superannuated or going to retire shortly and no period of service is left to his credit, (iii) where the workman has been rendered incapacitated to discharge the duties and cannot be reinstated and (iv) when he has lost confidence of the management to discharge duties.

In present case, management's witness says any charge sheet for misconduct was not issued to the workman. The Bank is not closed. Workman have not attained age of superannuation. The ratio held in above cited case does not support the contentions of 2nd party.

Learned counsel for 2nd party also relies on ratio held in case of Mahboob Deepak *versus* Nagar Panchayat Gajraula decided in Appeal NHO. 5875 of 2007. In para 2 of the judgment, their Lordship discussed it is now well settled by a catena of decisions of this court that in a situation of this nature instead and in place of directing reinstatement with full back wages, the workmen should be granted adequate monetary compensation.

Ratio held in above case holds the filed the reinstatement can be refused only on 4 grounds discussed above. Therefore ratio in above cited case cannot be beneficially applied. For same reasons, ratio held in case of MP Administration v/s Tribhuban reported in 2007 (5) Scale 397 cannot be beneficially applied to case at hand.

16. At the time of argument, learned counsel for workman Shri A.K. Shashi submits that workman is not interested in backwages rather workman be provided reinstatement without backwages. For the reasons discussed above, it would be appropriate to direct reinstatement of workman

considering he was working with 2nd party for about 3 years on daily wages. Despite settlement Exhibit W-1 & W-2 clearly stating that 54 part time employees were working against sanctioned post for long period, it is not known what advice was given by General Manager to said workman, reinstatement of workman would be appropriate. Accordingly I record my finding in Point No. 2.

17. In the result, award is passed as under:—

- (1) The action of Chairman, Satpura Kshetriya Gramin Bank, Chhindwara in terminating the services of Shri Nand Kishore Belkhede is not proper and legal.
- (2) Termination of workman is set-aside. 2nd party is directed to reinstatement workman without backwages.
- (3) Parties to bear their respective costs.

R.B. PATLE, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1968.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 26/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं एल-41011/109/2009-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1968.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of Northern Railway and their workmen, received by the Central Government on 05/10/2015.

[No. L-41011/109/2009-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM LABOUR COURT, LUCKNOW

PRESENT

SHRI RAKESH KUMAR,

PRESIDING OFFICER

I.D. No. 26/2010

Ref. No. L-41011/109/2009-IR (B-I) dated: 09.11.2010

BETWEEN

Mandal Sangatan Mantri
 Uttar Railways Karmchari Union
 283/63, Kh Gadi Kannora
 PO Manak Nagar
 Lucknow
 (Espousing cause of Shri Jag Prasad)

AND

1. Dy. Chief Engineer (Construction)
 Uttar Railway Charbagh
 Lucknow
 2. Deputy Chief Manager (Stores)
 Northern Railway, Stores Depot
 Alambagh, Lucknow

AWARD

1. By order No. L-41011/109/2009-IR (B-1) dated: 09.11.2010 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangatan Mantri, Uttar Railways Employee Union, 283/63, Kh Gadi Kannora, PO. Manak Nagar, Lucknow and the Dy. Chief Engineer (Construction), Uttar Railway, Charbagh, Lucknow & Deputy Chief Manager (Stores), Northern Railway, Stores Depot, Alambagh, Lucknow to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

"Whether the action of management of North Central Railway, Allahabad/Kanpur in not giving Shri Jag Prasad, T.No. 564 status of temporary worker from the date of completion of 120 days of service is legal and justified? If not, what relief the workman is entitled to?"

3. The case of the workman's union, in brief, is that the workman, Jag Prasad, has been engaged as casual labour with in construction unit under opposite party No. 1 and is presently working under opposite party No. 2. It has been alleged by the workman's union that the workman under dispute was to be given temporary status after completion of 120 days of working as per P.S.N. 7850, Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway Establishment Manual; but they were granted temporary status after five years' of their engagement, which is not only unfair labour practice but also is against Article 21 of the Constitution. According, the workman's union has prayed that the workmen concerned be granted temporary

status from the date they have completed 120 days' working with consequential benefits.

4. The management of the North Central Railways has filed its written statement denying the allegations of the workman's union with submission that the workman under dispute was initially engaged by them as Project Casual Labour in Construction Unit with intermittent gap *w.e.f.* 24.04.79 and has been granted temporary status on 01.01.85 *vide* letter No. 220-E/3/Recruit dated 22/25.02.85. It has been submitted that the Railway formulated a scheme to provide the temporary status to Project Casual Labour, circulated *vide* No. E(NG) II/84/CL/41 dated 1.6.84 as per directions of Hon'ble Apex Court in *Inder Pal Yadav & others vs. Union of India & others* (1985) 2 SCC 648. The management has submitted that as per modified date of grant of temporary status. The workmen were screened and posted as Gangman and is in fruitful employment of the opposite party for last 20 years, thus, raising the present industrial disputes after lapse of 20 long years makes it time barred hence, not maintainable in the eye of law. It is specifically submitted by the management that the workman has been engaged as project casual labour and as per existing Railway Rules 360 days' continuous service is required for grant of temporary status, therefore, the claim of the workmen for grant of temporary status after 120 days is not maintainable and liable to be rejected. Accordingly, the management has prayed that the claim of the workman's union be rejected being devoid of any merit.

5. The workman's union has filed its rejoinder wherein apart from reiterating facts already mentioned in the statement claim has submitted that the workman under dispute has not been appointed in any project, therefore, decision of Hon'ble Apex Court in *Inder Pal Yadav* case (*supra*) is not applicable on him and he should be granted temporary status after completion of 120 days of service.

6. The workman's union has not filed any documentary evidence in support of its claim; rather it has stated that the Casual Labour Card in respect of the workman and his Service Book, is with the employers, in original.

The management has filed photocopy of Casual Labour Card and Service Book in respect of workman.

7. The workman's union has examined workman, whereas the management examined Sri Sita Ram Sonkar, APO in support of their claim. The parties availed opportunity to cross-examine the each other's witnesses apart from putting oral arguments as well as written arguments.

8. Heard learned authorized representatives of the parties and perused entire evidence on record.

9. The authorized representative of the workman has contended that the workman was not project Casual Labour, rather he was Casual Labour engaged in construction division/unit. Therefore, he was eligible for grant of

temporary status from the date he completed 120 days of service. The railway administration instead treated him as project casual labour and granted him temporary status after lapse of five years which is unfair labour practice. It is also contended that the decisions of the Hon'ble Supreme Court in *Indra Pal Yadav case (supra)* is not applicable on the workman. The workman's union has relief on:

- (i) Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another 2008 (116) FLR 1046.
- (ii) Union of India & others vs. Basant Lal & others 1992 SCC (L&S) 611.
- (iii) L. Robert D'Souza vs. Executive Engineer, Southern Railway & another 1982 SCC (L&S) 124.
- (iv) N. Balakrishnan vs. M. Krishnamurthy ACJ 1998 1347 SC.
- (v) Kuldeep Singh vs. GM, Instrument Design Development and Facilities Centre & another 2011 (128) FLR 121.
- (vi) Din Mohammed (Dead) by LRs. vs. Union of India & others 2002 (92) FLR 1216.
- (vii) The Union of India & another vs. Girija Shankar & others 2003 (96) FLR 1094.

10. In rebuttal, the authorized representative of the management has contended that the workman has been project casual labour in construction unit and worked with intermittent gap and he was granted temporary status as per Railway Board's letter dated 01.06.84. It has been submitted that the Railway Board *vide* its letter dated 11.09.86 modified the date of temporary status to the workmen in view of decision given by Hon'ble Supreme Court in *Indra Pal Yadav case (supra)*. The management has contended that the workman was not entitled for grant of temporary status after completion of 120 days continuous service since he was engaged as project casual labour and as per existing Railway Rules, 360 days' continuous services is required for grant of temporary status to a project casual labour. The authorized representative of the management has also contended that the workman has turned up after lapse of more than 20 years and his cause is not tenable in the eye of law being time barred. The management has relied on *Inder Pal Yadav & others vs. Union of India* (1985) 2 SCC 648.

11. I have given my thoughtful consideration to the rival submission of the learned authorized representatives of the parties and scanned entire evidence on record in light thereto.

12. The workman has come up with a case that he has been engaged as casual labour in the Construction Unit of the Dy. Chief Engineer (Construction), Northern Railway, Lucknow and he was entitled for grant of temporary status

on completion of 120 days of service under P.S.N 7850 Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway Establishment Manual; but the management granted him temporary status after five years' of their appointment, amounting to unfair labour practice. The workman's union has not filed any documentary evidence in support of their case; rather it has pleaded that the same is in power and possession of the Railways.

13. The management of the Northern Railway, rebutting the claim of the workman's union has come up with a clear that the workman had been engaged as Project Casual Labour and accordingly, he was entitled for grant of temporary status on completion of 360 days continuous service, and accordingly, he was granted *vide* Railway Board's letter dated 01.06.84. Later on with decision of Hon'ble Apex Court in *Inder Pal Yadav case (supra)*, the date of grant of temporary status was modified *vide* Railway Board's letter dated 11.09.86 whereby the workmen were given temporary status from previous date. The Management has also stressed upon the factum of delay in raising the present industrial dispute after lapse of more than 20 years. The authorized representative of the management has pointed out that the workman is working with the railways for decades; but neither he preferred any representation, on the issue; nor moved to the court for redressal of his grievances. It is also stressed by the management that the workman has raised the present industrial dispute at a highly belated stage without any explanation to the delay. It has also been argued that though there is no limitation in the I.D. Act, 1947, but the same should not be condoned for the want of any explanation from the workman's union. He has also submitted that the Hon'ble Apex Court in number of its verdicts has observed that Courts should exercise their discretion, judiciously, while condoning the delay.

14. The workman's union has adduced evidence of the workman who stated in his cross-examination that he had been appointed as casual labour on 28.04.79 and he was granted temporary status *w.e.f.* 01.01.1983. Thereafter he admitted grant of temporary status *w.e.f.* 01.01.83.

15. The workman has not field any documentary proof in support of their claim but has relied on the photocopy of the service record and casual labour card of the workman, filed by the management. The service record of the workman shows the entry regarding grant of temporary status to the workman of different dates and there after grant of revised temporary status from different dates as per Railway Board's circular dated 11.9.86. The photocopy of the casual labour card, filed by the management has details regarding working of the workman with Permanent Way Inspector (Construction) at different-different stations.

Thus, both the parties have relied on the same set of documents in support of their different stands.

16. After going through the rival pleadings of the parties and documentary and oral evidence relied upon by the parties the bone of contention is as to whether the workman was Project casual labour or just casual labour engaged in the railway administration. Had they been Project Casual Labour then the action of the management was right and if they were casual labour on the rolls of railways then they ought to have been granted temporary status on completion of 120 days continuous service.

The burden that lied upon the workman's union was to come with the evidence that the workman was engaged as casual labour and he completed 120 days continuous service on this particular date, making him entitled for grant of temporary status. Thus, it was for the workman's union to lead its evidence on two points firstly that the workman was engaged as Casual Labour and secondly that he completed 120 days' of continuous working on such and such date. But the workman failed to comply with the above requirement. As it relied on the documentary evidence *i.e.* casual labour card which was in power and possession of the management for working detail; but when the management filed the photocopy of the same then it neither calculated the 120 days' continuous working from it nor disputed its genuineness. This goes to uphold the stand taken by the management that the workman was Project Casual Labour and accordingly he was granted temporary status on completion of 360 days' of continuous working *vide* Railway Board's letter dated 01.06.84 and thereafter granted them revised temporary status from a back *vide* letter dated 11.09.86 as per guidelines of Hon'ble Apex Court.

17. The workman has relied on *Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another* which pertains to termination of services of a workman in violation of provisions of Section 25 F, G & H of the Act. However, the facts of the present case are entirely different; hence not applicable in the present case. The workman has also relied on *Union of India and others vs. Basant Lal & others* 1992 SCC (L&S) 611; wherein the Hon'ble Apex Court has held that a workman having completed 120 days of working becomes entitled for regularization as temporary worker and the Railway cannot deny them the temporary status on the ground that they had been appointed as casual labour on a project work and not on construction work on open line and as such they would acquire the temporary status only after completing 360 days of service. But in the present case the workman's union failed to specify the date when the different workman completed 120 days' of continuous service, rendering them for grant of temporary status. The workman's union has also relied on *L.Robert D'Souza vs Executive Engineer, Southern Railway & another* 1982 SCC (L&S) 124 but the fact of the case law is entirely different from the present case hence not applicable. Likewise the facts of the case law relied upon by the workman in *Union of India & another vs. Girja Shankar & others* 2003 (96) FLR 1094, *Kuldeep Singh vs. GM Instrument Design Development*

and Facilities Centre & another 2011 (128) FLR 123 and *Din Mhammaed (Dead) by LRs. Vs. Union of India & others* 2002 (992) FLR 1216 are quite different from the facts of the present case hence not appreciable.

18. It is well settled that if a party challenges the legality of an action, the burden lies upon him to prove illegality of the action; and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman's union to set out the grounds to challenge the validity of the action of the management in not granting the temporary status to the workman after completion of 120 days' of continuous working. For this the burden of proof was on the workman's union to come with the evidence, that the workman under dispute has been engaged by the management of Railways as casual labour and under Rules they were entitled for grant of temporary status from completion of 120 days services with the employers; but the workman's union has failed to discharge the burden that lied upon them. The workman's union made a pleading, to explain the reason why it is not in position to file any documentary evidence before this Tribunal, in their statement of claim on the effect that the relevant document in support of their claim *i.e.* Casual Labour Card is attached in their Service Book. The workman's union in its rejoinder required the management to produce Casual Labour Card in respect of the workman before this Tribunal, resultantly, the management filed photocopy of Casual Labour Card and Services Book in respect of the workman. The workman's union did not dispute the service details filed by the management *i.e.* Casual Labour Card and extracts of service Book. Therefore, when the management has filed the photocopy of Casual Labour Card as desired by the workman's union it was incumbent upon the workman's union to come forward and sort out the relevant extract of the Casual Labour Card, which bears working details *i.e.* working period and numbers of days, to show that the workman completed 120 days of continuous on such and such date he was entitled for grant of temporary status from such date. But the workman has utterly failed to bring any evidence to the effect before this Tribunal that the workman was engaged as Casual Labour and that the workman was casual labour and it also failed to specify the date as to when the workman completed 120 days' of continuous working, making him eligible for grant of temporary status.

19. On the contrary the management has come with a clear cut case that the workman was engaged as Project Casual Labour with Construction Unit. It is also contended by the learned authorized representative of opposite party that there are so many projects which go on with the Construction Unit and the workman were kept engaged in different projects. It is also specifically pleaded and proved by the management that the workman was granted temporary status *vide* Railway Board's letter dated 01.06.84; but due to Supreme Court's direction in *Indra Pal Yadav Case (supra)*, the Railway Board *vide* its letter dated 11.09.86,

changed the date of grant of Temporary status, as per modified policy and accordingly, reduced the date of Temporary Status through notice. The management has filed photocopy of Service Record in respect of workman, which bears entries regarding grant of temporary status to the workman.

20. The management has made a specific pleading to the effect that the claim of the workman's union is stale one and time barred as the union has preferred the case before this Tribunal after lapse of more than 20 years. The workman's union in rebuttal has submitted that there is no provision regarding limitation in the Industrial Disputes Act, 1947; hence their claim is maintainable.

In this regard the workman's union has relied on *N. Balakrishnan vs. M. Krishnamurthy* 1998 ACJ 1347; wherein Hon'ble Apex Court while dealing with the matter delay has observed that length of delay does not matter, acceptability of the explanation is the only criterion. But the workman's union has not given any explanation in its pleadings as to what prevented them to raise an industrial dispute at an early state. However, in the evidence it has been stated that the workman/union wrote many letters to the opposite parties and the same are pending with them; although no copy of such letter/representation finds its reference either on record or annexure with the affidavit. Moreover, the management witness *vide* para 9 of his affidavit has denied of submissions of any such application by the workmen.

In *Chennai Metropolitan Water Supply and Sewerage Board & others vs. T.T. Murali Babu* 2014 (141) FLR 772, Hon'ble Apex Court has observed as under:

"The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a Constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reasons, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of enquiry. In certain circumstances delay and laches may be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant- a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring a hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the Court, yet the writ Court chose not to address the same. It is the duty of the Court to scrutinize whether such enormous delay is to be ignored without any justification."

Further, in *Dr. Jawahar Lal Rohatgi Memorial Eye Hospital vs. State of U.P. & others* 2013 (138) FLR 11 Hon'ble Allahabad High Court upholding the action of the State Government in denying the making reference of case after 22 years held that it is not expedient for State government to refer against order of termination dated 26.6.1982 being old and stale case, where the workman filed an application raising industrial dispute after 22 years in 2004. Hon'ble High Court observed that there is nothing to indicate as to why the workman could not approach the authority under the ID Act.

Thus, from the fact of record it is crystal clear the workman did not bother to approach the management or any legal forum for redressal of his grievances for more than 20 years; and the explanation forwarded by the workman's union before this tribunal is insufficient.

21. Hence, from the facts and circumstances of the case and law cited hereinabove; I am of considered opinion that the action of the management of Northern Railway, Lucknow in not giving temporary status to the workman, Shri Jag Prasad, from the alleged date of completion of 120 days of service is neither illegal nor unjustified. Accordingly, I come to the conclusion that the workman's union is not entitled to any relief.

22. The reference under adjudication is answered accordingly.

23. Award as above.

Lucknow.

22nd September, 2015.

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1969.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 21/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं. एल-41011/123/2009-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1969.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 05/10/2015.

[No. L-41011/123/2009-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT LUCKNOW****PRESENT :**

SHRI RAKESH KUMAR, Presiding Officer

I.D. No. 21/2010

Ref. No. L-41011/123/2009-IR (B-I) dated: 08.11.2010

BETWEEN

Mandal Sangatan Mantri
Uttar Railway Karmchari Union
283/63, Kh Gadi Kannora
PO Manak Nagar
Lucknow

(Espousing cause of Shri Ram Kumar)

AND

1. Dy Chief Engineer (Construction)
Uttar Railway, Charbagh
Lucknow.
2. Deputy Chief Manager (Stores)
Northern Railway, Stores Depot
Alambagh, Lucknow

AWARD

1. By order No. L-41011/123/2009-IR (B-I) dated: 08.11.2010 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangatan Mantri, Uttar Railways Employee Union, 283/63; Kh Gadi Kannora, PO. Manak Nagar, Lucknow and the Dy. Chief Engineer (Construction), Uttar Railway, Charbagh, Lucknow & Deputy Chief Manager (Stores), Northern Railway, Stores Depot, Alambagh, Lucknow to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

"Whether the action of management of North Central Railway, Allahabad/Kanpur in not giving Shri Ram Kumar, T.No. 449 status of temporary from the date of completion of 120 days of service in legal and justified? If not, what relief the workman is entitled?"

3. The case of the workman's union, in brief, is that the workman, Ram Kumar, has been engaged as casual labour with in construction unit under opposite party No. 1 and is presently working under opposite party No. 2. It has been alleged by the workman's union that the workman under dispute was to be given temporary status after completion of 120 days of working as per P.S.N. 7850, Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway

Establishment Manual; but they were granted temporary status after five years' of their engagement, which is not only unfair labour practice but also is against Article 21 of the Constitution. Accordingly, the workman's union has prayed that the workman concerned be granted temporary status from the date they have completed 120 days's working with consequential benefits.

4. The management of the North Central Railways has filed its written statement denying the allegations of the workman's union with submission that the workman under dispute was initially engaged by them as Project Casual Labour in Construction Unit with intermittent gap *w.e.f.* 24.04.79 and has been granted temporary status on 01.01.85 *vide* letter 220-E/3/Recruit dated 22/25.02.85. It has been submitted that the railway formulated a scheme to provide the temporary status to Project Casual Labour, circulated *vide* No. E(NG)II/84/CL/41 dated 1.6.84 as per directions of Hon'ble Apex Court in Inder Pal Yadav & others *vs.* Union of India & others (1985) 2 SCC 648. The management has submitted that as per modified date of grant of temporary status, the workmen were screened and posted as Gangman and is in fruitful employment of the opposite party for last 20 years, thus, raising the present industrial disputes after lapse of 20 long years makes it time barred hence, not maintainable in the eye of law. It is specifically submitted by the management that the workman has been engaged as project casual labour and as per existing Railway Rules 360 days' continuous service is required for grant of temporary status, therefore, the claim of the workmen for grant of temporary status after 120 days is not maintainable and liable to be rejected. Accordingly, the management has prayed that the claim of the workman's union be rejected being devoid of any merit.

5. The workman's union has filed its rejoinder wherein apart from reiterating facts already mentioned in the statement claim has submitted that the workman under dispute has not been appointed in any project, therefore, decision of Hon'ble Apex Court in Inder Pal Yadav case (*supra*) is not applicable on him and he should be granted temporary status after completion of 120 days of service.

6. The workman's union has not filed any documentary evidence in support of its claim; rather it has stated that the Casual Labour Court in respect of the workman and his Service Book, is with the employers, in original.

The management has filed photocopy of Casual Labour Card and Service Book in respect of workman.

7. The workman's union has examined workman; whereas the management examined Sri Sita Ram Sonkar, APO in support of their claim. The parties availed opportunity to cross-examine each other's witnesses apart from putting oral arguments as well as written arguments.

8. Heard learned authorized representatives of the parties and perused entire evidence on record.

9. The authorized representative of the workman has contended that the workman was not project casual labour; rather he was casual labour engaged in construction division/unit. Therefore, he was eligible for grant of temporary status from the date he completed 120 days of service. The railway administration instead treated him as project casual labour and granted him temporary status after lapse of five years which is unfair labour practice. It is also contended that the decisions of the Hon'ble Supreme Court in Indra Pal Yadav case (supra) is not applicable on the workman. The workman's union has relied on:

- (i) Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another 2008(116) FLR 1046.
- (ii) Union of India & Others vs. Basant Lal & others 1992 SCC (L&S) 611.
- (iii) L. Robert D' Souza vs. Executive Engineer, Southern Railway & another 1982 SCC (L&S) 124.
- (iv) N. Balakrishnan vs. M. Krishnamurthy ACJ 1998 1347 SC,
- (v) Kuldeep Singh vs. GM, Instrument Design Development and Facilities Centre & another 2011 (128) FLR 121.
- (vi) Din Mohammed (Dead) by LRS. vs. Union of India & others 2002 (92) FLR 1216.
- (vii) The Union of India & another vs. Grija Shankar & others 2003 (96) FLR 1094.

10. In rebuttal, the authorized representative of the management has contended that the working has been project casual labour in construction unit and worked with intermittent gap and he was granted temporary status as per Railway Board's letter dated 01.06.86. It has been submitted that the Railway Board vide its letter date 11.09.86 modified the date of temporary status to the workman in view of decision given by Hon'ble Supreme Court in Indra Pal Yadav case (supra). The management has contended that the workman was not entitled for grant of temporary status after completion of 120 days continuous service since he was engaged as project casual labour and as per existing Railway Rules, 360 days' continuous services is required for grant of temporary status to a project casual labour. The authorized representatives of the management has also contended that the workman has turned up after lapse of more than 20 years and his cause is not tenable in the eye of law being time barred. The management has relief on Indra Pal Yadav & others vs. Union of India (1985) 2 SCC, 648.

11. I have given my thoughtful consideration to the rival submissions of the learned authorized representatives

of the parties and scanned entire evidence on record in light thereto.

12. The workman has come up with a case that he has been engaged as casual labour in the Construction Unit of the Dy. Chief Engineer (Construction), Northern Railway, Lucknow and he was entitled for grant of temporary status on completion of 120 days of service under P.S.N. 7850, Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway Establishment Manual; but the management granted him temporary status after five years' of their appointment, amounting to unfair labour practice. The workman's union has not filed any documentary evidence in support of their case; rather it has pleaded that the same is in power and possession of the Railways.

13. The management of the Northern Railways, rebutting the claim of the workman's union has come up with a clear cut case that the workman had been engaged as Project Casual Labour and accordingly, he was entitled for grant of temporary status on completion of 360 days continuous service; and accordingly, he was granted *vide* Railway Board's letter dated 01.06.84. Later on with decision of Hon'ble Apex Court in Indra Pal Yadav case (supra), the date of grant of temporary status was modified *vide* Railway Board's letter dated 11.09.86 whereby the workmen were given temporary status from previous date. The management has also stressed upon the factum of delay in raising the present industrial dispute after lapse of more than 20 years. The authorized representative of the management has pointed out that the workman is working with the railways for decades; but neither he preferred any representation, on the issue; nor moved to the court for redressal of his grievances. It is also stressed by the management that the workman has raised the present industrial dispute at a highly belated stage without any explanation to the delay. It has also been argued that though there is no limitation in the I.D. Act, 1947; but the same should not be condoned for the want of any explanation from the workman's union. He has also submitted that the Hon'ble Apex Court in number of its verdicts has observed that Courts should exercise their discretion, judiciously, while condoning the delay.

14. The workman's union has adduced evidence of the workman who stated in his cross-examination that he had been appointed as casual labour in 1978 and he was granted temporary status *w.e.f.* in 1994. Thereafter he admitted grant of temporary status *w.e.f.* 1.1.81. The workman admitted the photocopy of service record and casual labour card, filed by the management, from paper No. M-9.

15. The workman has not filed any documentary proof in support of their claim but has relied on the photocopy of the service record and casual labour card of the workman, filed by the management. The service record of the workman shows the entry regarding grant of temporary status to the

workman of different dates and there after grant of revised temporary status from different dates as per Railway Board's circular dated 11.9.86. The photocopy of the casual labour card, filed by the management has details regarding working of the workman with Permanent Way Inspector (Construction) at different-different stations.

Thus, both the parties have relied on the same set of documents in support of their different stands.

16. After going through the rival pleadings of the parties and documentary and oral evidence relied upon by the parties the bone of contention is as to whether the workman was Project casual labour or just casual labour engaged in the railway administration. Had they been Project Casual Labour then the action of the management was right and if they were casual labour on the rolls of railways then they ought to have been granted temporary status on completion of 120 days continuous service.

The burden that lied upon the workman's union was to come with the evidence that the workman was engaged as Casual Labour and he completed 120 days continuous service on this particular date, making him entitled for grant of temporary status. Thus, it was for the workman's union to lead its evidence on two points firstly that the workman was engaged as Casual Labour and secondly that he completed 120 day's of continuous working on such and such date. But the workman failed to comply with the above requirement. As it relied on the documentary evidence *i.e.* casual labour card which was in power and possession of the management for working detail; but when the management field the photocopy of the same then it neither calculated the 120 days' continuous working from it nor disputed its genuineness. This goes to upheld the stand taken by the management that the workman was Project Casual Labour and accordingly he was granted temporary status on completion of 360 days' of continuous working *vide* Railway Board's letter dated 01.06.84 and thereafter granted them revised temporary status from a back date *vide* letter dated 11.09.86 as per guidelines of Hon'ble Apex Court.

17. The workman was relied on Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & Another which pertains to termination of services of a workman in violation of provisions of Section 25F, G & H of the Act. However, the facts of the present case are entirely different; hence not applicable in the present case. The workman has also relied on Union of India & Others Vs. Basant Lal & Others 1992 SCC (L&S) 611; wherein the Hon'ble Apex Court has held that a workman having completed 120 days of working becomes entitled for regularization as temporary worker and the Railway cannot deny them the temporary status on the ground that they had been appointed as casual labour on a project work and not on construction work on open line and as such they would acquire the temporary status only after completing

360 days of service. But in the present case the workman's union failed to specify the date when the different workmen completed 120 days' of continuous service, rendering them for grant of temporary status. The workman's union has also relied on L. Robert D'Souza Vs. Executive Engineer, Southern Railway & Another 1982 SCC (L&S) 124 but the fact of the case law is entirely different from the present case hence not applicable. Likewise the facts of the case law relied upon by the workman in the Union of India & Another Vs. Girja Shankar & Others 2003 (96) FLR 1094, Kuldeep Singh Vs. GM Instrument Design Development and Facilities Centre & Another 2011 (128) FLR 123 and Din Mhammaed (Dead) By LRs. Vs. Union Of India & Others 2002 (992) FLR 1216 are quite different from the fact of the present case hence not appreciable.

18. It is well settled that if a party challenges the legality of an action, the burden lies upon him to prove illegality of the action; and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman's union to set out the grounds to challenge the validity of the action of the management in not granting the temporary status to the workman after completion of 120 days of continuous working. For this the burden of proof was on the workman's union to come with the evidence, that the workman under dispute has been engaged by the management of Railways as casual labour and under Rules they were entitled for grant temporary status from completion of 120 days services with the employers; but the workman's union has failed to discharge the burden that lied upon them. The workman's union made a pleading, to explain the reason why it is not in position to file any documentary evidence before this Tribunal, in their statement of claim the effect that the relevant document in support of their claim *i.e.* Casual Labour Card is attached in their Service book. The workman's union in its rejoinder required the management to produce Casual Labour Card in respect of the workman before this Tribunal, resultantly, the management filed photocopy of Casual Labour Card and Services Book in respect of the workman. The workman's union did not dispute the service details filed by the management *i.e.* Casual Labour Card and extracts of Service Book. Therefore, when the management has field the photocopy of Casual Labour Card as desired by the workman's union then it was incumbent upon the workman's union to come forward and sort out the relevant extract of the Casual Labour Card, which bears working details *i.e.* working period and number of days, to show that the workman completed 120 days of continuous on such and such date and he was entitled for grant of temporary status from such date. But the workman has utterly failed to bring any evidence to the effect before this Tribunal that the workman was engaged as Casual Labour and that the workman was casual labour and it also failed to specify the date as to when the workman completed 120 days' of continuous working, making him eligible for grant of temporary status.

19. On the contrary the management has come with a clear cut case that the workman was engaged as Project Casual Labour with Construction Unit. It is also contended by the learned authorized representative of opposite party that there are so many projects which go on with the Construction Unit and the workmen were kept engaged in different Projects. It is also specifically pleaded and proved by the management that the workman was granted temporary status *vide* Railway Board's letter dated 01.06.84; but due to Supreme Court's direction in Indra Pal Yadav Case (supra), the Railway Board *vide* its letter dated 11.09.86, changed the date of grant of temporary status, as per modified policy and accordingly, reduced the date of Temporary Status through notice. The management has filed photocopy of Service Record in respect of workman, which bears entries regarding grant of temporary status to the workman.

20. The management has made a specific pleading to the effect that the claim of the workman's union is stale one and time barred as the union has preferred the case before this Tribunal after lapse of more than 20 years. The workman's union in rebuttal has submitted that there is no provision regarding limitation in the Industrial Disputes Act, 1947; hence their claim is maintainable.

In this regard the workman's union has relied on N. Balakrishnan VS M. Krishnamurthy 1998 ACJ 1347; wherein Hon'ble Apex Court while dealing with the matter delay has observed that length of delay does not matter, acceptability of the explanation is the only criterion. But the workman's union has not given any explanation in its pleadings as to what prevented them to raise an industrial dispute at an early state. However, in the evidence it has been stated that the workman/union wrote many letters to the opposite parties and the same are pending with them; although no copy of such letter/representation finds its reference either on record or annexure with the affidavit. Moreover, the management witness *vide* para 9 of his affidavit has denied of submissions of any such application by the workmen.

In Chennai Metropolitan Water Supply and Sewerage Board & Others Vs. T.T. Murali Babu 2014 (141) FLR 772, Hon'ble Apex Court has observed as under:

"The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a Constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may be fatal but in most circumstances inordinate delay would only

invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant—a litigant who has forgotten the basic norms, namely "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring a hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the Court, yet the writ Court chose not to address the same. It is the duty of the Court to scrutinize whether such enormous delay is to be ignored without any justification."

Further, in Dr. Jawahar Lal Rohatgi Memorial Eye Hospital Vs. State of U.P. & Others 2013 (138) FLR 11 Hon'ble Allahabad High Court upholding the action of the State Government in denying the making reference of case after 22 years held that it is not expedient for State Government to refer against order of termination dated 26.6.1982 being old and stale case, where the workman filed an application raising industrial dispute after 22 years in 2004. Hon'ble High Court observed that there is nothing to indicate as to why the workman could not approach the authority under the ID Act.

Thus, from the face of record it is crystal clear the workman did not bother to approach the management or any legal forum for redressal of his grievances for more than 20 years; and the explanation forwarded by the workman's union before this Tribunal is insufficient.

21. Hence, from the facts and circumstances of the case and law cited hereinabove; I am of considered opinion that the action of the management of Northern Railway, Lucknow in not giving temporary status to the workman, Shri Ram Kumar, from the alleged date of completion of 120 days of service is neither illegal nor unjustified. Accordingly, I come to the conclusion that the workman's union is not entitled to any relief.

22. The reference under adjudication is answered accordingly.

23. Award as above.

LUCKNOW. RAKESH KUMAR, Presiding Officer
22nd September, 2015.

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1970.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 37/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं. एल-41011/106/2010-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1970.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 05/10/2015.

[No. L-41011/106/2010-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT:

RAKESH KUMAR, Presiding Officer

I.D. No. 37/2011

Ref. No. L-41011/106/2010-IR(B-1) dated: 14.03.2011

BETWEEN

Mandal Sangthan Mantri
Uttar Railway Karmchari Union
283/63 Kh, Garhi Kananora (Premwati Nagar)
PO-Manak Nagar
Lucknow-16.
(Espousing cause of Shri Jai Lakhan Dixit)

AND

Senior Divisional Railway Manager (Personnel)
Northern Railway, Hazratganj
Lucknow.

AWARD

1. By order No. L-41011/106/2010-IR(B-I) dated: 14.03.2011 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangthan Mantri, Uttar Railway Karmchari Union, 283/63 Kh, Garhi Kananora (Premwati Nagar), PO - Manak Nagar, Lucknow and Senior Divisional Railway Manager (Personnel), Northern Railway, Hazratganj, Lucknow for adjudication to this CGIT-cum-Labour Court, Lucknow.

2. The reference under adjudication is:

"Whether the demand of the union regarding placing Shri Jai Lakhan Dixit S/o. Shri M.L. Dixit, Assistant Loco Pilot, Loco-shed, Lucknow in the penal of 1983-84 above his juniors and grant of pay benefits accordingly is legal and justified? To what relief the union is entitled?"

3. The case of the workman's union, in brief, is that the workman, was appointed as cleaner *w.e.f.* 01.01.1976 and worked as such till 03.09.1981 continuously, when he had been retrenched *w.e.f.* 04.09.1981 illegally. The workman challenged his retrenchment before CGIT-cum-Labour Court, Kanpur in I.D. No. 48/83 and 163/1983 and the Tribunal was pleased to reinstate the workman with back wages from the date of retrenchment *vide* their award dated 19.02.1987 and 25.11.1985. The management challenged the award of CGIT, Kanpur before Hon'ble High Court, which was rejected; likewise the SLP too before Hon'ble Apex Court was rejected; accordingly, the workman was reinstated on 03.08.1983. It is alleged that the management *vide* its order No. 220 E/1-5/Screening/Loco dated 30.08.1991 regularized the workman on the post of Loco Cleaner; whereas it absorbed other junior workmen in the panel for the year 1983-84 on the basis of 120 days working up to 30.09.1998, which is in violation to the provisions of Railway Rules. It is submitted by the workman's union that Shri Amarjeet Singh & Shri Abdul Aziz were also included in the panel for year 1992 but later on included in the panel of year 1983-84 on the orders of Hon'ble CAT, Lucknow. Likewise, other workman *viz.* Sri Pratap Bahadur & Ahmad Ali, who were earlier included in panel for the year 1992 were included in the panel for year 83-84 as per order of this Tribunal. Accordingly, the workman's union has prayed that the name of the workman, be included in the panel of the year 1983-84 which consequential benefits.

4. The management of the railways has filed its written statement, denying the claim of the workman's union and has contended that the workman's union has sought the relief placing the name of the workman in the panel of year 1983-84, which is not permissible because of the seniority of other employees will be effected and they are not arrayed as party in present industrial dispute and if the relief is granted, several other workers may prefer the matter in courts since their seniority shall be effected. The management has specifically submitted that the industrial dispute has been referred after lapse of more than 25 years without any rhyme or reason or any sufficient explanation; and accordingly, the same is liable to be rejected on the point of limitation.

5. The workman's union has filed its rejoinder wherein apart from reiterating facts already mentioned in the statement claim has submitted that there is no limitation provided in the Industrial Disputes Act, 1947.

6. The parties filed documentary as well as oral evidence in support of their respective case and forwarded oral arguments.

7. Heard learned authorized representatives of the parties at length and perused entire evidence on record.

8. The authorized representative of the workman has contended that since the termination dated 04.09.81 has

been held illegal and the workman had been reinstated with consequential benefits, therefore he is entitled for inclusion in the panel of year 1983-84. He has relied upon:

- (i) N. Balakrishnan VS. M. Krishnamurthy 1998 ACJ 1347.

9. In rebuttal, the authorized representative of the management has contended that the workman was screened and rightly placed in the seniority panel *vide* order dated 30.08.1991. The management has vehemently contended that the workman is not entitled to be included in the panel for the year 1983-84, inasmuch as the present industrial dispute is time barred and the workman has raised this industrial dispute when he found that some other workmen got benefit from different Court/Tribunals. The management has relied on :

- (i) M. Ramakotaiah & others Union of India & others 2007 (6) AWC 6656 (SC).

10. I have given my thoughtful consideration to the rival contentions of the learned authorized representatives of the parties and scanned the entire evidence available on record.

11. Admittedly, the workman had been terminated *w.e.f.* 04.09.1981 and his termination had been declared to be illegal and was reinstated with back wages by the CGIT-cum-Labour Court, Kanpur. Also, the Hon'ble Court in writ petition, filed by the management of railways, upheld the award regarding reinstatement and the management in compliance of award reinstated the workman and paid him back wages. However, the management's contention over the issue referred to this Tribunal is, that the workman was screened and was rightly placed in the seniority panel for 1991 and he is not entitled for inclusion in the panel for year 1983 as he was not in service at that point of time, more so because the present industrial dispute has been raised after lapse of more than 25 years.

12. Thus, the question to be adjudicated is as to whether the workman is entitled to be included in the seniority panel of 1983-84, which was denied to him, consequent upon his termination in the said year? It is admitted fact that the workman was not in service due to illegal termination in the relevant year 1983, when the seniority panel was drawn and his name was not considered. The termination of the workman was quashed by the CGIT-cum-Labour Court, Kanpur and in compliance thereof the management reinstated the workman, treating the termination as notest and paid back wages in compliance of the order of the Hon'ble High Court.

As per award of the CGIT-cum-Labour Court, Kanpur, the reinstatement order was not qualified one to be given effect to the extent of monetary benefits only. As per settled procedure, logically and legally reinstatement required grant of all service benefits including seniority as if the

termination had not taken place. The management complied with the order of reinstatement without giving seniority and released monetary benefits to the workman. On the quashing of termination order, it has to be assumed that the workman was never been terminated and continued to be in service notionally. The effect of the reinstatement is that the workman would be deemed in service on the last post held on the date of termination. Accordingly, he is entitled for preference over his juniors and to be included in the seniority panel for the year 1983-84.

13. The management of the railways has come up with a contention that the present industrial dispute is time barred as it has been raised after lapse of more than 25 years. The workman's witness during his cross-examination stated that he moved an application before DRM, but has not filed its copy before this Tribunal. He further, stated that when the management did not act upon his repeated representations, then he raised the present industrial dispute. The authorized representative has contended that the workman has not given any reliable explanation for inordinate delay of 25 years; rather he turned up when the other got successful. He stressed that the order of the Hon'ble CAT, Lucknow Bench, Lucknow in respect of Amarjeet Singh was delivered on 26.04.1993; but the workman has raised present industrial dispute in 2011, without any explanation.

14. The management has relied upon N. Balakrishnan VS M. Krishnamurthy 1998 ACJ 1347; wherein Hon'ble Apex Court while dealing with the matter of delay has observed that length of delay does not matter, acceptability of the explanation is the only criterion.

In Chennai Metropolitan Water Supply and Sewerage Board & others VS T.T. Murali Babu 2014 (141) FLR 772, Hon'ble Apex Court has observed as under:

"The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a Constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit

one to sleep and rise like a phoenix. Delay does bring a hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the Court, yet the writ Court chosen to address the same. It is the duty of the Court to scrutinize whether such enormous delay is to be ignored without any justification."

Further, in *Dr. Jawahar Lal Rohatgi Memorial Eye Hospital VS State of U.P. & others* 2013 (138) FLR 11 Hon'ble Allahabad High Court upholding the action of the State Government in denying the making reference of case after 22 years held that it is not expedient for State government to refer against order of termination dated 26.6.1982 being old and stale case, where the workman filed an application raising industrial dispute after 22 years in 2004. Hon'ble High Court observed that there is nothing to indicate as to why the workman could not approach the authority under the ID Act. On the issue of delay the workman has tried to explain his delay by pleading that he kept on making representations before the authorities; but in the absence of any copy there of his contention cannot be relied upon. There is no other explanation about delay.

Thus, from the face of record it is crystal clear that the workman did not bother to approach the management or any legal forum for redressal of his grievances for more than 20 years; and he approached this Tribunal when he came to know about favourable order of courts in similar nature of cases, which points out towards opportunities of the workman. Moreover, the explanation forwarded by the workman's union before this Tribunal is insufficient.

15. In the present case admittedly there is delay of approximately 20 years as he was screened *vide* order dtd 30.08.1991. The workman's union failed to give any logical explanation for this inordinate delay of 20 years. Hon'ble Apex Court in *Ajaib Singh VS. Sirhind Co-operative Marketing-cum-Processing Services Society Ltd. & another* 1999 LAB IC 1435 where there was admitted delay of seven years has held that the Court can mould relief by refusing back wages or directing payment of part of back wages.

16. Thus, from the facts and circumstances of the case and the case laws cited hereinabove, I am considered opinion that the action of the management of Central Railway in not including the name of the workman in the panel for year 1983-84 was illegal and unjustified. Accordingly, I come to the conclusion that the workman, Shri Jai Lakhan Dixit is entitled for placement in the panel of 1983-84 above his juniors, subject to his suitability under Rules. He shall be entitled to services benefits under Rules; however, he would be liable for payment of only 1/3rd back wages, in view of delay in raising the present industrial dispute.

17. The reference under adjudication is answered accordingly.

18. Award as above.

RAKESH KUMAR, Presiding Officer

LUCKNOW

16th September, 2015.

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1971.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 23/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5/10/2015 को प्राप्त हुआ था।

[सं एल-41011/107/2009-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1971.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 5/10/2015.

[No. L-41011/107/2009-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT:

Shri Rakesh Kumar, Presiding Officer

I.D. No. 23/2010

Ref. No. L-41011/107/2009-IR (B-I) dated: 09.11.2010

BETWEEN

Mandal Sangatan Mantri
Uttar Railways Karmchhari Union
283/63, Kh Gadi Kannora
PO Manak Nagar
Lucknow

(Espousing cause of Shri Bhai Lal)

AND

1. Dy. Chief Engineer (Construction)
Uttar Railway, Charbagh
Lucknow.
2. Deputy Chief Manager (Stores)
Northern Railway, Stores Depot
Alambagh, Lucknow.

AWARD

1. By order No. L-41011/101/2009-IR (B-I) dated: 09.11.2010 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangatan Mantri, Uttar Railways Employee Union, 283/63, Kh Gadi Kannora, PO. Manak Nagar, Lucknow and the Dy. Chief Engineer (Construction), Uttar Railway, Charbagh, Lucknow & Deputy Chief Manager (Stores), Northern Railway, Stores Depot, Alambagh, Lucknow to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

"Whether the action of Management of North Central Railway, Allahabad/Kanpur in not giving Shri Bhai Lal, T.No. 56 status of Temporary worker from the date of completion of 120 days of service is legal and justified? To what relief the workman is entitled?"

3. The case of the workman's union, in brief, is that the workman, Bhai Lal, has been engaged as casual labour with in contruction unit under opposite party No. 1 and is presently working under opposite party No. 2. It has been alleged by the workman's union that the workman under dispute was to be given temporary status after completion of 120 days of working as per P.S. No. 7850, Master Circular 48/92 and Rules 2304, 2501 and 2511 of Indian Railway Establishment Manual; but they were granted temporary status after five years' of their engagement, which is not only unfair labour practice but also is against Article 21 of the Constitution. Accordingly, the workman's union has prayed that the workmen concerned be granted temporary status from the date they have completed 120 days' working with consequential benefits.

4. The management of the North Central Railways has filed its written statement denying the allegations of the workman's union with submission that the workman under dispute was initially engaged by them as Project Casual Labour in Construction Unit with intermittent gap *w.e.f.* 24.04.79 and has been granted temporary status on 01.01.85 *vide* letter No. 220-E/3/Recruit dated 22/25.02.85. It has been submitted that the railway formulated a scheme to provide the temporary status to Project Casual Labour, circulated *vide* No. E(NG)II/84/CL/41 dated 1.6.84 as per directions of Hon'ble Apex Court in Inder Pal Yadav & others vs. Union of India & others (1985) 2 SCC 648. The management has submitted that as per modified date of grant of temporary status, the workmen were screened and posted as Gangman and is in fruitful employment of the opposite party for last 20 years, thus, raising the present industrial disputes after lapse of 20 long years makes it time barred hence, not maintainable in the eye of law. It is specifically submitted

by the management that the workman has been engaged as project casual labour and as per existing Railway Rules 360 days' continuous service is required for grant of temporary status, therefore, the claim of the workmen for grant of temporary status after 120 days is not maintainable and liable to be rejected. Accordingly, the management has prayed that the claim of the workman's union be rejected being devoid of any merit.

5. The workman's union has filed its rejoinder wherein apart from reiterating facts already mentioned in the statement claim has submitted that the workman under dispute has not been appointed in any project, therefore, decision of Hon'ble Apex Court of Inder Pal Yadav case (*supra*) is not applicable on him and he should be granted temporary status after completion of 120 days of service.

6. The workman's union has not filed any documentary evidence in support of its claim; rather it has stated that the Casual Labour Card in respect of the workman and his Service Book, is with the employers, in original.

The management has filed photocopy of Casual Labour Card and Service Book in respect of workman.

7. The workman's union has examined workman; whereas the management examined Sri Prabir Kumar Gupta, SPO/ Stores in support of their claim. The parties availed opportunity to cross-examine the each other's witnesses apart from putting oral arguments as well as written arguments.

8. Heard learned authorized representatives of the parties and perused entire evidence on record.

9. The authorized representative of the workman has contended that the workman was not project casual labour; rather he was casual labour engaged in construction division/unit. Therefore, he was eligible for grant of temporary status from the date he completed 120 days of service. The railway administration instead treated him as project casual labour and granted him temporary status after lapse of five years which is unfair labour practice. It is also contended that the decisions of the Hon'ble Supreme Court in Inder Pal Yadav case (*supra*) is not applicable on the workman. The workman's union has relied on:

- (i) Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another 2008(116) FLR 1046.
- (ii) Union of India & others vs. Basant Lal & others 1992 SCC (L&S) 611.
- (iii) L. Robert D'Souza vs. Executive Engineer, Southern Railway & another 1982 SCC (L&S) 124.
- (iv) N. Balakrishnan vs. M. Krishnamurthy ACJ 1998 1347 SC.

- (v) Kuldeep Singh *vs.* GM, Instrument Design Development and Facilities Centre & another 2011 (128) FLR 121.
- (vi) Din Mohammed (Dead) by LRS *vs.* Union of India & others 2002 (92) FLR 1216.
- (vii) The Union of India & another *vs.* Girja Shankar & others 2003 (96) FLR 1094.

10. In rebuttal, the authorized representative of the management has contended that the workman has been project casual labour in construction unit and worked with intermittent gap and he was granted temporary status as per Railway Board's letter dated 01.06.84. It has been submitted that the Railway Board *vide* its letter dated 11.09.86 modified the date of temporary status to the workmen in view of decision given by Hon'ble Supreme Court in Indra Pal Yadav case (*supra*). The management has contended that the workman was not entitled for grant of temporary status after completion of 120 days continuous service since he was engaged as project casual labour and as per existing Railway Rules, 360 days' continuous services is required for grant of temporary status to a project casual labour. The authorized representative of the management has also contended that the workman has turned up after lapse of more than 20 years and his cause is not tenable in the eye of law being time barred. The management has relied on Inder Pal Yadav & others *vs.* Union of India (1985) 2 SCC 648.

11. I have given my thoughtful consideration to the rival submissions of the learned authorized representatives of the parties and scanned entire evidence on record in light thereto.

12. The workman has come up with a case that he has been engaged as casual labour in the Construction Unit of the Dy. Chief Engineer (Construction), Northern Railway, Lucknow and he was entitled for grant of temporary status on completion of 120 days of service under P.S.N. 7850, Master Circular 48/92 and Rules 2304, 2501 and 2511 of Indian Railway Establishment Manual; but the management granted him temporary status after five years' of their appointment, amounting to unfair labour practice. The workman's union has not filed any documentary evidence in support of their case; rather it has pleaded that the same is in power and possession of the Railways.

13. The management of the Northern Railways, rebutting the claim of the workman's union has come up with a clear cut case that the workman had been engaged as Project Casual Labour and accordingly, he was entitled for grant of temporary status on completion of 360 days continuous service; and accordingly, he was granted *vide* Railway Board's letter dated 01.06.84. Later on with decision of Hon'ble Apex Court in Inder Pal Yadav case (*supra*), the date of grant of temporary status was modified *vide* Railway Board's letter dated 11.09.86 whereby the workmen were

given temporary status from previous date. The management has also stressed upon the factum of delay in raising the present industrial dispute after lapse of more than 20 years. The authorized representative of the management has pointed out that the workman is working with the railways for decades; but neither he preferred any representation, on the issue; nor moved to the court for redressal of his grievances. It is also stressed by the management that the workman has raised the present industrial dispute at a highly belated stage without any explanation to the delay. It has also been argued that though there is no limitation in the I.D. Act, 1947; but the same should not be condoned for the want of any explanation from the workman's union. He has also submitted that the Hon'ble Apex Court in number of its verdicts has observed that Courts should exercise their discretion, judiciously, while condoning the delay.

14. The workman's union has adduced evidence of the workman who stated in his cross-examination that he had been appointed as casual labour on 17.08.79 and he was granted temporary status *w.e.f.* 1.1.83. The workman admitted the photocopy of service record and casual labour card, filed by the management, from paper No. M-8/1 to 8/12.

15. The workman has not filed any documentary proof in support of their claim but has relied on the photocopy of the service record and casual labour card of the workman, filed by the management. The service record of the workman shows the entry regarding grant of temporary status to the workman of different dates and there after grant of revised temporary status from different dates as per Railway Board's circular dated 11.9.86. The photocopy of the casual labour card, filed by the management has details regarding working of the workman with Permanent Way Inspector (Construction) at different-different stations.

Thus, both the parties have relied on the same set of documents in support of their different stands.

16. After going through the rival pleadings of the parties and documentary and oral evidence relied upon by the parties the bone of contention is as to whether the workman was project casual labour or just casual labour engaged in the railway administration. Had they been Project Casual Labour then the action of the management was right and if they were casual labour on the rolls of railways then they ought to have been granted temporary status on completion of 120 days continuous service.

The burden that lied upon the workman's union was to come with the evidence that the workman was engaged as Casual labour and he completed 120 days continuous service on this particular date, making him entitled for grant of temporary status. Thus, it was for the workman's union to lead its evidence on two points firstly that the workman was engaged as casual Labour and secondly that he

completed 120 day's of continuous working on such and such date. But the workman failed to comply with the above requirement. As it relied on the documentary evidence *i.e.* casual labour card which was in power and possession of the management for working detail; but when the management field the photocopy of the same then it neither calculated the 120 days' continuous working from it nor disputed its genuineness. This goes to uphold the stand taken by the management that the workman was project Casual Labour and accordingly he was granted temporary status on completion of 360 days' of continuous working *vide* Railway Board's letter dated 01.06.84 and thereafter granted them revised temporary status from a back date *vide* letter dated 11.09.86 as per guidelines of Hon'ble Apex Court.

17. The workman has relied on *Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another* which pertains to termination of services of a workman in violation of provisions of Section 25F, G & H of the Act. However, the facts of the present case are entirely different; hence not applicable in the present case. The workman has also relied on *Unoin of India & others vs. Basant Lal & others* 1992 SCC (L&S) 611; wherein the Hon'ble Apex Court has held that a workman having completed 120 days of working becomes entitled for regularization as temporary works and the Railway cannot deny them the temporary status on the ground that they had been appointed as casual labour on a project work and not on construction work on open line and as such they would acquire the temporary status only after completing 360 days of service. But in the present case the workman's union failed to specify the date when the different workmen completed 120 days' of continuous service, rendering them for grant of temporary status. The workman's union has also relied on *L. Robert D'Souza vs Executive Engineer, Southern Railway & another* 1982 SCC (L&S) 124 but the fact of the case law is entirely different from the present case hence not applicable. Likewise the facts of the case law relied upon by the workman in the *Union of India & another vs. Girja Shankar & others* 2003 (96) FLR 1094, *Kuldeep Singh vs. GM Instrument Design Development and Facilities Centre & another* 2011 (128) FLR 123 and *Din Mhammaed (Dead) By LRs. vs. Union Of India & others* 2002 (992) FLR 1216 are quite different from the facts of the present case hence not appreciable.

18. It is well settled that if a party challenges the legality of an action, the burden lies upon him to prove illegality of the action; and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman's union to set out the grounds to challenge the validity of the action of the management in not granting the temporary status to the workman after completion of 120 days of continuous working. For this the burden of proof was on the workman's union to come with the evidence, that the workman under

dispute has been engaged by the management of Railways as casual labour and under Rules they were entitled for grant of temporary status from completion of 120 days services with the employers; but the workman's union has failed to discharge the burden that lied upon them. The workman's union made a pleading, to explain the reason why it is not in position to file any documentary evidence before this Tribunal, in their statement of claim to the effect that the relevant document in support of their claim *i.e.* Casual Labour Card is attached in their Service book. The workman's union in its rejoinder required the management to produce Casual Labour Card in respect of the workman before this Tribunal, resultantly, the management filed photocopy of Casual Labour Card and Services Book in respect of the workman. The workman's union did not dispute the service details filed by the management *i.e.* Casual Labour Card and extracts of Service Book. Therefore, when the management has field the photocopy of Casual Labour Card as desired by the workman's union then it was incumbent upon the workman's union to come forward and sort out the relevant extract of the Casual Labour Card, which bears working details *i.e.* working period and number of days, to show that the workman completed 120 days of continuous on such and such date and he was entitled for grant of temporary status from such date. But the workman has utterly failed to bring any evidence to the effect before this Tribunal that the workman was engaged as Causal Labour and that the workman was casual labour and it also failed to specify the date as to when the workman completed 120 days' of continuous working, making him eligible for grant of temporary status.

19. On the contrary the management has come with a clear cut case that the workman was engaged as Project Casual Labour with Construction Unit. It is also contended by the learned authorized representative of opposite party that there are so many projects which go on with the Construction Unit and the workmen were kept engaged in different Projects. it is also specifically pleaded and proved by the management that the workman was granted temporary status *vide* Railway Board's letter dated 01.06.84; but due to Supreme Court's direction in *Indra Pal Yadav Case (supra)*, the Railway Board *vide* its letter dated 11.09.86, changed the date of grant of temporary status, as per modified policy and accordingly, reduced the date of Temporary Status through notice. The management has filed photocopy of Service Record in respect of workman, which bears entries regarding grant of temporary status to the workman.

20. The management has made a specific pleading to the effect that the claim of the workman's union is stale one and time barred as the union has preferred the case before this Tribunal after sapse of more than 20 years. The workman's union in rebuttal has submitted that there is no provision regarding limitation in the Industrial Disputes Act, 1947; hence their claim is maintainable.

In this regard the workman's union has relied on N. Balakrishnan vs M. Krishnamurthy 1998 ACJ 1347; wherein Hon'ble Apex Court while dealing with the matter delay has observed that length of delay does not matter, acceptability of the explanation is the only criterion. But the workman's union has not given any explanation in its pleadings as to what prevented them to raise an industrial dispute at an early state. However, in the evidence it has been stated that the workman/union wrote many letters to the opposite parties and the same are pending with them; although no copy of such letter/representation finds its reference either on record or annexure with the affidavit. Moreover, the management witness vide para 9 of his affidavit has denied of submissions of any such application by the workman.

In Chennai Metropolitan Water Supply and Sewerage Board & others vs T.T. Murali Babu 2014 (141) FLR 772, Hon'ble Apex Court has observed as under:

"The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a Constitutional Court it has a duty to protect the right of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant—a litigant who has forgotten the basic norms, namely "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring a hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the Court, yet the writ Court chose not to address the same. It is the duty of the Court to scrutinize whether such enormous delay is to be ignored without any justification."

Further, in Dr. Jawahar Lal Rohatgi Memorial Eye Hospital vs State of U.P. & Others 2013 (138) FLR 11 Hon'ble Allahabad High Court upholding the action of the State Government in denying the making reference of case after 22 years held that it is not expedient for State government to refer against order of termination dated 26.6.1982 being old and state case, where the workman filed an application raising industrial dispute after 22 years in 2004. Hon'ble High Court observed that there is nothing to indicate as to why the workman could not approach the authority under the ID Act.

Thus, from the face of record it is crystal clear the workman did not bother to approach the management or any legal forum for redressal of his grievances for more

than 20 years; and the explanation forwarded by the workman's union before this Tribunal is insufficient.

21. Hence, from the facts and circumstances of the case and law cited hereinabove; I am of considered opinion that the action of the management of Northern Railway, Lucknow in not giving temporary status to the workman, Shri Bhai Lal, from the alleged date of completion of 120 days of service is neither illegal nor unjustified. Accordingly, I come to the conclusion that the workman's union is not entitled to any relief.

22. The reference under adjudication is answered accordingly.

23. Award as above.

LUCKNOW

16th September, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1972.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 1, धनबाद के पंचाट (संदर्भ संख्या 14/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं एल-20012/217/2002-आईआर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1972.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. TISCO and their workmen, received by the Central Government on 05/10/2015.

[No. L-20012/217/2002-IR(C-1)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of
I.D. Act, 1947

Ref. No. 14 of 2003

Employer in relation to the management of TISCO

AND

Their workmen

Present:

Shri Ranjan Kumar Saran, Presiding Officer.

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the workman : None

State : Jharkhand

Industry : Coal.

Dated 15/9/2015

AWARD

By Order No. L-20012/217/2002-IR (C-I), dated. 24/01/2003, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the RCMS from management of TISCO for providing employment to the dependent son of Shri Hiroo Gorai the workman discharged from service on medical ground is justified? If so, to what relief the workmen or his dependent entitled?"

2. After receipt of the reference the parties are noticed. Though they took steps for certain dates, subsequently did not take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime. Hence No Dispute Award is passed.

R.K. SARAN, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1973.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 2, धनबाद के पंचाट (संदर्भ संख्या 36/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं एल-20012/130/2012-आईआर (सीएम-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 05/10/2015.

[No.L-20012/130/2012-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD****PRESENT :**

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act., 1947.

REFERENCE NO. 36 OF 2013

PARTIES : The Secretary,
Jharkhand Janta Mazdoor Union,
Vishwakarma Colony, Nutandih,
PO; Jagjivan Nagar, Dhanbad.

Vs.

The General Manager,
Kusunda Area of M/s BCCL,
PO; Kusunda, Dhanbad.

Order No. L-20012/130/2012-IR(CM-I)
dt. 08.02.2013

APPEARANCES:

On behalf of the workman/Union : Mr. Pintu Mandal,
Ld.Rep

On behalf of the Management : Mr. U.N. Lal, Ld.Adv.

State : Jharkhand

Industry: Coal

Dated, Dhanbad, the 1st Sept., 2015

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/130/2012-IR (CM-I) dt. 08.02.2013.

SCHEDULE

"Whether the action of the Management of Gondudih Khas Kusunda Colliery of M/s BCCL in dismissing Shri Ashok Kr. Rajak, Ex. M/Loader from the services of the Company vide letter dated 16/17.09.1997 is fair and justified? To what relief is the concerned workman entitled to?"

On receipt of the Order No. L-20012/130/2012-IR(CM-I) dt 08.02.2013 of the above mentioned reference from the Government of India, Ministry of Labour and Employment, New Delhi for adjudication of the dispute, the Reference Case No. 36 of 2013 was registered on 01.03.2013, and accordingly an order to that effect was passed to issue notice through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with

the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union/ Petitioner and the O.P./Management through their own Ld. Union Representative and Counsel respectively appeared.

2. The case of the workman Ashok Kumar Rajak as represented by the Sponsoring Jharkhand Janta Mazdoor Union in his written statement is that the workman was a permanent employee of M/s BCCL who was posted as M/Loader at Khas Kusunda Colliery, Kusunda area. He was issued the chargesheet vide No. KK/97/2000 dt. 05/07.02.1997 for his unauthorized absentism. It was issued to deal with the absence for minor punishment, so he was given 48 hours time to reply to the chargesheet. The contention of the workman was never considered either by the Enquiry Officer or by the Disciplinary Authority. He was ultimately dismissed from the service of the Company as per order No. 1775 dt. 16/17.02.1997. But the Disciplinary Authority did not issue him any show Cause Notice for his defence properly, so it was a gross illegality on the part of the employer. Thereafter, the workman appealed before the Appellate Authority on 17.10.1997 against the dismissal order. But the Appellate Authority did not dispose of the appeal in accordance with the provision the Certified Standing Order of the Company. Non disposal of the appeal the Appellate Authority is violation of the provisions of the Certified Standing Orders, which are the laws. It appears from the above facts that at every step, the principles of the law have been violated. The workman belongs to S/C Community. The punishment of dismissal imposed on the workman is not in proportionate to his alleged misconduct of absentism. Under such circumstances; the action of the Management in dismissing Shri Rajak was not unjustified.

The workman in his rejoinder filed on the behalf of the Secretary of the Union has specifically denied all the allegations of the O.P./Management, further alleging that the charge as levelled was not established nor any documentary proof was brought in course of the enquiry, nor any 2nd Show Cause Notice was served upon him, so it amounts to denial of natural justice.

3. Whereas the counter statement of behalf of the O.P./ Management is that the workman Ashok Kumar Rajak, the Ex.-M/Loader had absented unauthorizedly from 29.4.1996 to 04.02.1997, so he was issued the charge sheet dt. 5/7.2.1997 for his unauthorized absentism under 26.1.1 of the Certified Standing Orders. The workman had submitted his reply to the charge sheet, but it was not satisfactory. Hence the Disciplinary Authority decided for the Enquiry into it by appointing Shri B. Pandey, Dy P.M., Kusunda Colliery and Shri N.N. Adhikary as the Enquiry Officer

and the Management Representative, respectively as per the letter No. 291 dt.24/25.2.1997 which was duly received by the workman.

On the notice of the enquiry, the workman fully participated in it. He was given full opportunity for his defence. The enquiry was held according to the principles of natural justice. The enquiry Officer submitted his enquiry report, holding the charge of habitual absentism as fully established against the workman. On application of his mind and consideration of the workman's past three years' attendances, viz, 34, 92 and 90 days in the year 1996 to 94 respectively, the Disciplinary Authority had finally decided to impose upon the workman the penalty of dismissal from services, endorsing to the Chief General Manager. The workman was served with the 2nd Show Cause Notice as per the Letter No. 1375 dt. 23/25.8.1997. The reply of the workman to it was also found unsatisfactory. The Management dismissed the workman from the service of the Company as per the Office Order No. 1775 dt. 16/ 17.09.1997, directing him to vacate the Company's quarter and to get his dues from the office. It is evident from the above facts that the action of the Management in dismissing the workman from the service of the Company was quite just and justified for his absentism. So the workman is not entitled to any relief.

The O.P./Management in its simultaneous rejoinder has categorically denied the allegations of the workman as incorrect, further submitting to provide a chance to produce afresh evidence to prove the charge against the workman, if the enquiry is found unsatisfactory.

FINDINGS WITH REASONS

4. In the instant case, at the preliminary point over the fairness of the domestic enquiry, the Union Representative for the workman by filing a petition on 20.08.2014, accepted the enquiry fair and proper, so the Tribunal as per the order No. 11 dt. 20.8.2014 held not other-wise except fair. The copies of the documents of both the parties on their consensus were marked for proper appreciation of fact in issue.

Mr. Pintu Mandal, the Union Representative for the workman, has submitted that in this case according to the charge sheet (Ext.1), the workman concerned had absented from his duty *w.e.f.* 29.04.1996, but in fact he got absent from his duty due to sickness of his father under his look after under intimation to the Management. Since the chargesheet does not reveal the precise nature of any misconduct, it is not legally sustainable. Moreover, the Manager had granted 48 hours time in the charge sheet to the workman for his reply. It clearly meant for initiation of the disciplinary proceeding for minor punishment, but the Manager of the Khas Kusunda Colliery passed the order of dismissed towards the workman which is not justified, and even 2nd Show Cause notice was also not issued;

thus it has been urged on behalf of the workman that in such circumstances the workman is entitled to his reinstatement with full back wages and consequential benefits.

5. Just contrary to it, Mr. U.N. Lal, Ld. Counsel for the OP/Management contends that the workman was a habitual absentee from 29.04.1998 just as his past three years record of service; on the 2nd Show Cause Notice as per the Management's letter No. 1375 dt. 23/25 August, 1997, to which the workman has given his reply, but after finding it unsatisfactory, the Disciplinary Authority as per the letter dt. 16/17.09.1997 imposed upon him the punishment of dismissal (Ext. M.10) Which is just and justified; therefore the workman is not entitled to any relief.

6. On the perusal and consideration of the materials as produced on behalf of both the parties, I find the facts as under:

- (i) The reply of the charge-sheeted workman dt.6.2.1997 as also stated before the Enquiry Office clearly all along displayed the fact he was so inextricably involved or engaged in the look after and medication for his over-sick father that he got unable to attend to his duty at the relevant time.
- (ii) The secondly, the past three years record of the Service Records of the workman appears to be unaccounted in course of the enquiry.
- (iii) Thirdly, there is no proof of the 2nd Show Cause to the workman prior to his dismissal, or his reply to it, and
- (iv) Fourthly, the punishment of his dismissal for his misconduct of absenteeism for the relevant period appears to be not only harsh but also disproportionate to the nature of his misconduct under clause 26.1.1 of the Certified Standing Order of the Company. So the dismissal of the workman is liable to be set aside under Sec. 11 A of the Industrial Disputes Act, 1947.

In view of the aforesaid findings, it is, in the terms of the Reference, hereby responded and accordingly awarded that the action of the Management of Gondudih Khas Kusunda Colliery of M/s BCCL in dismissing Shri Ashok Kr. Rajak, Ex. M/Loader from the services of the Company as per the letter dt. 16./17.09.1997 is quite unfair and unjustified. Therefore, the workman concerned is entitled to his reinstatement in the service of the Company without back wages for the relevant period.

Hence the OP/Management is directed to implement the Award within a month from the date of its receipt after the publication of it by Government of India in the Gazette.

KISHORI RAM, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1974.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 57/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं० एल-20012/80/2007-आईआर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1974.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. CCL and their workmen, received by the Central Government on 05/10/2015.

[No. L-20012/80/2007-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT :

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 57 OF 2007

PARTIES : Shri Bhola Sao,
S/o Late Kolha Sao,
Vill: Central Saunda 7 No. Barrack,
PO: Saunda, Hazaribagh.

Vs.
The Project Officer,
Central Saund Colliery of M/s CCL,
Post Saunda, Hazaribagh.

APPEARANCES:

On behalf of the workman/Union : Mr. S. N. Goswami,
Ld. Advocate

On behalf of the Management : Mr. D. K. Verma,
Ld. Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 10th Sept., 2015

AWARD

"The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/80/2007-IR(CM-I) dt. 31.08.2007/07.09.2007.

SCHEDULE

"Whether the action of the management of Central Saunda Colliery of M/s CCL in dismissing the services of Shri Bhola Sao, Loader, *w.e.f.* 24.04.2004 is justified and legal? If not, to what relief is the concerned workman is entitled?"

On receipt of the Order No. L-20012/80/2007-IR(CM-I) dt. 31.08.2007/07.09.2007 the above mentioned reference from the Government of India, Ministry of Labour and Employment, New Delhi for adjudication of the dispute, the Reference Case No. 57 of 2007 was registered on 18.09.2007 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their Ld. Counsels, respective, appeared in, and contested the case.

2. The case of workman Bhola Sao as represented in his claim statement is that he is a bona fide worker, as he was employed as Miner/Loader as proved from his Identity Card which was issued by the Management of the Central Saunda Colliery of M/s C.C.L., His photograph along with his personal particulars has been certified by the Competent Officer of the Company. He has also submitted his sworn affidavit from the court of the Magistrate. It has proved his genuineness, as he has been issued the Identity Card by the Election Commissioner, as the son of Late Kolh Sao as certified by him. The office of the Dy. Commissioner, Hazaribagh as per his reference no. 1100472 has certified his family details, the names of his family members for the issuance of his Ration Card. All the documents prove him a genuine worker of the Central Saunda Colliery of M/s. CCL. He was not impersonating anybody. Further alleged that workman Bhola Sao, son of Kolha Sao was also issued by the Management the Service Excerpt in 1987 containing all his family details who are supposed to be based on the details entered into the Form B of the Colliery maintained under the Mines Act, 1952 and its Rule. He had also objected to his date of birth 01.05.1944 having been recorded in place of the year 1954 in his service Excerpt. He had been working in the said colliery since 26.5.73. But he was suddenly issued the charge sheet by the Management

on 29.08.2001 that he was factually Gultu Sao by name, but he had been impersonating the real workman named Bhola Sao who had died in the year 1995.

3. Further alleged by the workman is that the entire enquiry was concocted which was not properly but in volition of the principle of natural justice conducted in English, not in Hindi version. It is remarkable to note the neither Management lodged an FIR for the cheating by personation which is a criminal offence u/s 416 of the Indian Penal Code nor any punishment was awarded to Shri Bhola Sao by the Criminal Court. Though the Management Representative produced a Death Certificate issued by a local body in the enquiry, neither cause of death nor any document to that effect produced in the enquiry in respect of the person being impersonated. The other Bhola Sao, who later on died in the year 1995, had never complained. Moreover, in respect of the impersonation of any other Bhola Sao by the workman, the officials of the Management - the Attendance Clerk, the Mining Sardar or the Overman - did not report of it to the Personnel Officer, the Asst. Manager or to the Project Officer of the colliery during the life time of the other person. None appeared on behalf of the impersonatee to prove his impersonation against the workman. The charge as established in the faulty enquiry in incorrect; rather it is *malafide* intention. So the punishment of dismissal as awarded by the Management is baseless and unjustified; the workman Bhola Sao is, therefore entitled to reinstatement with full back wages and all consequential benefit.

4. The workman petitioner in his rejoinder has specifically denied the allegations of the O.P./Management, emphasizing no misconducts under clauses 26.1, 26.9, 26.13 and 26.22 of the Certified Standing Orders of the Company. The principles of natural justice were ignored in the enquiry.

5. Whereas challenging the maintainability of the Industrial Dispute in law and on facts, the contra case of the OP/Management is that since the workman had committed the misconducts under the provisions of the Certified Standing Orders of the Company, he was issued the charge sheet cum suspension letter No. PO/CS/01/2132 dt. 23/29.08.2001 for impersonation as under:

"Your elder brother Bhola Sao was offered employment at Toppa Project, CCL. Kuju Area in the year 1973 *vide* letter No. CWB/Assess-Man Power/73/3894-99 dated 25/26.5.1973 and later on he was transferred to Barkakana Area *vide* order dated 23.12.1975. In conspiracy with your said elder brother Shri Bhola Sao, you fraudulently entered into the employment of CCL in place of him as an impersonator during the year 1976 and you have since been impersonating and working as Bhola Sao in CCL even after his death on 30.12.1995.

During the period of employment in CCL under the identify of you elder Brother, you further played fraud and cheating on the Company. First of all tempted by your apparent younger look and more sound health (as against your brother who was nearly 10 years older and very weak), you attempted to gain an employment in terms of No. of years by disputing the recorded age of Bhola Saw in service records through service sheet excerpts. Thereafter, in connivance with the officials of CCL you managed substitution of the name of your wife and children in statutory and other official records in place of your brother's. Though the original worker Bhola Saw had nominated his wife Sonia Devi for the purpose of statutory payments as per Form-declaration (under CMPF) executed by him on 1-5-1974 but you substituted the above nomination by nominating Makri Devi, your wife through statutory form PS-4 executed on 27.05.1998. Similarly through statutory form PS-3, you also declared Meghan Saw and others as children of Bhola Saw whereas in reality Shri Doman Saw, Mahabir Saw and Bodhan Saw are sons of Bhola Saw is his nephew, and son of his younger brother, that is your son. You further attempted to mislead management through a wrong statement on 4-5-2000 recorded by the investigating officer appointed by the Area Authority about the identity of Bhola Saw and his family member. Even in voter's list of Central Sounda, you got fraudulently declared yourself as Bhola Saw, Makri Devi as W/o Bhola Sao and Meghan Saw as son of Bhola Saw.

Being an impersonator, you have been also fraudulently drawing salary wages and other fringe benefits like medical, LTC/LLTC etc. even since 1976, and thus you have caused huge financial loss to the Company.

Your above illegal acts if proved would constitute serious misconducts within the meaning of SO. Nos. 26.1, 26.9, 26.13 and 26.22 of the Certified Standing Orders of CCL by which your services are governed in the Company. The said four SO Nos. read as under:

"26.1 : Theft, fraud or dishonesty in connection with the employer's business or property.

26.9 : Giving false information regarding one's name, age, father's name, qualification etc. in connection with his employment.

26.13 : Tempering with company's records with ulterior motive.

26.22 : Any willful and deliberate act which is subversive of discipline or which may be detrimental to the interest of the company".

Further stated by the O.P./Management is that the workman concerned had submitted his reply dt. 27.09.2001.

Being dissatisfied with it, the Authority concerned as per the Office Order No. CS/PO/Enquiry/03/160 dt. 20/21.01.2003 directed for a detailed enquiry into it, appointing Shri Deepak Kumar, Personnel Manager (EE), CCL, Ranchi, and Shri B.N. Dutta, Dy. FM(Vig), CCL as the Enquiry Officer and the Management Representative respectively. After holding the domestic enquiry in accordance with the principle of natural justice in presence of the workman concerned, the Enquiry Officer submitted his enquiry report, holding the charges as levelled as proved against the workmen. The workman was furnished with a copy of the Enquiry Report with the copies of all proceedings as well as with the 2nd Show Cause Notice as per the letter No. CS/PO/SC/04/1043 dt. 08.04.2004. On consideration of all the materials and gravity of the charges, the Management as per the approval of the Competent Authority dismissed the workman from the services of the CCL. *w.e.f.* 24.04.2004, as not any extenuating circumstances existed to think otherwise. The dismissal of the workman is legal and justified. However, the O.P./Management had sought for permission to afresh prove the charges, in case the domestic enquiry held as unfair. The workman is not entitled to any relief.

6. The O.P./Management in its simultaneous rejoinder has categorically denied all the allegations of the workman concerned as incorrect and irrelevant, further stating the charges levelled against the workman having been entered into the employment of the company fraudulently by impersonating himself as Bhola Saw whereas he was not the actual Bhola Saw were duly proved. Thus the action of the Management is alleged as legal and justified.

FINDINGS WITH THE REASONS

7. In the instant reference, at the preliminary point of fairness of the enquiry, the Tribunal on consideration of all relevant facts as per the order No. 31 dt. 25.11.2013 held the domestic enquiry as fair, proper and in accordance with the principle of natural justice.

In result, it came up for hearing the final arguments of both the parties on merits. Mr. S.N. Goswami, the Ld. Counsel for the petitioner/workman as per his written arguments has submitted that despite submitting all the relevant documents such as Identity Card No. 6985 with the particulars, appointment dt 26.5.1973 and the CFP A/c No. R-55-2799, the certificate of Vocational Training bearing No. 370, Service Excerpts duly verified by the Manager concerned dt. 26.10.1988, the affidavits dated 24.1.1998 and 11.03.2003 of his family details before the Notary Public and the Executive Magistrate Ramgarh respectively, the Certificate issued by the Gram Panchayat concerned and his Identity Card of the Election Commission of the India and Ration Card and the letter dt. 8.10.2001 related to the workman, these documents were not considered in course of the enquiry; so the enquiry was held biasedly, and accordingly the report of the enquiry being perverse is unsustainable. Further it is submitted on behalf of the petitioner workman that after about 26 year of his

continuous service by the workman Bhola Saw, he has been dismissed by the O.P./Management on the ground of impersonation which has not been proved, because neither the impersonatee brought any complaint against him before the Management, and lastly that under these circumstances, the dismissal of petitioner workman for his alleged misconduct is shockingly disproportionate, illegal and unjustified, so it is liable to be set aside. As such the petitioner workman is legally entitled to reinstatement and full back wages with all the benefits from the date of the dismissal.

8. Just contrary to it, the contention of Mr. D.K. Verma, the Ld. Counsel for the O.P./Management, is that real Bhola Sao, the elder of alleged instant workman by the same name, was offered employment at Topa Project, CCL Kuju Area in the year 1973; when he was transferred to Barkakana Area, aforesaid real workman Bhola Sao had not joined there, but the instant petitioner workman who is his younger brother Gultu Sao by impersonating his elder brother Bhola Sao, the real workman, joined there; for this reason, the instant petitioner workman working as Bhola Sao was chargesheeted by the O.P./Management for his aforesaid grave misconducts under the Certified Standing Order of the company. Further submitted by Mr. Verma is that after due enquiry into it, wherein three prosecution witnesses were examined and relevant documents were also marked Exhibits in support of the misconducts of the instant petitioner workman. In the enquiry, it was found and proved that the instant petitioner workman was Gultu Sao who was working by impersonating his elder brother Bhola Sao, the real workman even after the death of the latter. As such on the basis of the proved charge for his misconduct, the instant petitioner workman was dismissed from the service of the Company for his fraudulently getting the employment in the Company, through impersonation of his elder brother Bhola Sao; thus in view of the gravity of the misconduct, the dismissal of the petitioner workman is quite proportionate to the nature of his misconduct as specified under the Certified Standing Order of the Company; hence the petitioner workman as Bhola Sao is not entitled to any relief.

9. Heard of the arguments of both the Learned Counsels for the respective parties. Perused the materials of both the parties as available on the case record, I find the facts as under:

- (i) First real workman was Bhola Sao S/o Late Kolha Sao of Vill. Nimadih, P.S. Mandu, Dist; Hazaribagh (then State Bihar) was originally but first by appointed as M/Loader in Topa Colliery under Kuju Area of M/s. C.C.L. in the year 1973 at the time of N.C.D.C. He was transferred from there to the Central Saunda colliery under Barkakana Area as per the letter S.P.P/II/5175/1 dt. 23rd Dec., 1975. Thereafter, he fell sick, and due to his bad health,

he executed the Ekrarnama on 11.01.1976 (Ext. ME 6/1) and entrusted his service to his younger brother Gultu (Goltu) Sao before Gram panchsy Charhi, Hazaribagh, subject to the condition that he (Gultu Sao) would pay for the maintenance of minor sons (i) Doman Sao and (ii) Mahavir Sao and (iii) Bodhan Sao, out of whom, on maturity of said Doman Sao, he(Gultu Sao) would give him back the service.

- (ii) secondly : the instant workman working as Bhola Sao after fraudulently entry into the service of the company at Central Saunda got the name of Sonia Devi, wife of Bhola Sao, Change as Makri Devi in his voter lists as well as in his service record as nominee in collusion with the officials of the Management. (DE 1 Series). On the repeated complaints dt. 31.12.1997 and 21.1.1998 of Mahavir Sao, the son of Late Bhola Sao to the Authorities concerned about the aforesaid events, the initiation of domestic enquiry into the chargesheet started. After fairly holding the departmental enquiry into it, the charges of fraudulent gaining the employment as a Coal Loader at the Central Saunda Colliery in the year 1975 in the name of real workman named Bhola Sao have been proved as evident from the Enquiry Proceeding and Enquiry report (Ex.M.8)
- (iii) On second show cause Notice dt. 18.4.2004 in view of the grave misconduct of the instant workman, he was dismissed by the O.P./Management from the service of the C.C.L. Company. *w.e.f* 24.04.2004 (Ext. M.10). The appeal of the workman impersonating Bhola Saw who also accordingly dismissed as per the office order dt. 26.5.2005 of the Appellate Authority (Ex.M.11).

10. Considering all the aforesaid cogent facts, I am of the view that the alleged workman Bhola Sao does not deserve any relief under Sec. 11 A of the Industrial Dispute Act, 1947, as his dismissal for his grave misconduct proved under the Certified Standing Order of the Company is quite proportionate to his misconducts of gross/serious nature.

11. In result, it is, in the terms of the referenced, hereby responded and accordingly awarded that the action of the Management of Central Saunda Colliery of M/s CCL. in dismissing the service of alleged Shri Bhola Sao, Loader *w.e.f* 24.04.2004 is quite justified and legal. Hence, the workman concerned is not entitled to any relief whatsoever; rather he is liable to be legally prosecuted for the offence of impersonation of his elder brother Bhola Sao who had illegally abandoned his service in favour of his said brother Gultu Sao to act as Bhola Sao following his transfer to Saunda Colliery, due to his ill health.

KISHORI RAM, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1975.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सहारा इंडिया सेंटर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम, न्यायालय नं० 2, दिल्ली के पंचाट (संदर्भ संख्या 40/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं० एल-11012/32/2008-आईआर (सीएम-1)]
एम॰के॰ सिंह, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1975.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Delhi as shown in the Annexure, in the industrial dispute between the management of M/s. Sahara India Centre and their workmen, received by the Central Government on 05/10/2015.

[No. L-11012/32/2008-IR (CM-I)]
M.K. SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

PRESENT: Shri Harbansh Kumar Saxena

ID. NO. 40/2009

Sh. Ajay Kumar & Others
D-35 A, Shyam Vihar,
Phase-I, Dinpur, Najafgarh,
New Delhi.

.....Workman

Versus

M/s. Sahara India Centre, 8th floor,
2, Kapoorthala Complex, Aliganj,
Lucknow-226024.

.....Management

AWARD

The Central Government in the Ministry of Labour *vide* notification No. L-11012/32/2008-IR (CM-I) dated 15.06.2009 referred the following Industrial Dispute to this Tribunal for adjudication:—

"I. Whether the demand of Sh. Vinod kumar & Other (as annexed) for their absorption in Jet Lite by the management of Jet Airways with reference to the Share Purchase Agreement of dated 01.04.2007 entered by the management of Jet Airways (India) Limited, Sahara India Commercial Corporation Limited and others Sahara Airlines Limited is justified and legal?

II. To what reliefs are the workmen concerned entitled?"

On 02.07.2009 reference was received in this Tribunal. Which was register as I.D No. 40/2009 and claimants were called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workmen/claimants filed claim statement on 23.10.2009. Wherein they prayed as follows:—

It is, therefore, most respectfully prayed that claimants be absorbed in service in Jet Lite by Management of Jet Airways, giving benefits of their seniority and all consequential benefits on the facts and circumstances as mentioned above.

- | | |
|-------------------|----------|
| 1. Vinod Kumar | EC.40555 |
| 2. Kapil Dev Bhal | EC.42630 |
| 3. Amar Singh | EC.43319 |
| 4. Ajay Kumar | EC.46788 |
| 5. Naveen Ram | EC.42462 |

Against claim statement management filed written statement on 23.04.2010.

Through which he prayed as follows:—

In view of the above, it is most respectfully prayed that the present alleged Industrial dispute may kindly be answered in favour of the M/s. Sahara India commercial Corporation Ltd. And against the claimants/workmen and an Award may accordingly be passed in favour of M/s. Sahara India commercial Corporation Ltd. Holding that the claimants are not entitled to get any relief.

On 20.02.2014 framed following issues:—

"i. Whether the demand of Sh. Vinod Kumar & Others (as annexed) for their absorption in Jet Lite by the management of Jet Airways with reference to the Share Purchase Agreement of dated 01.04.2007 entered by the management of Jet Airways (India) Limited, Sahara India Commercial Corporation Limited and others and Sahara Airlines Limited is justified and legal? If so, its effect?

ii. What relief the workmen are entitled to?

Fixed 03.04.2014 for workmen evidence.

When workmen have not filed their affidavit in spite of several opportunities then this tribunal on 25.08.2014 closed the right of workmen to adduce their evidence and fixed 10.10.2014 for management evidence.

Burden to prove issue no. 1 lies on workmen. But they adduce no evidence. Management no. 1 Management in its evidence produce MW1 Sh. Bharat Bhushan Yadav who tendered his affidavit in evidence of management

which is exhb.MW1/A. Which bears his signature at point and A and B. He also placed reliance on documents Exh. MW 1/1 to Ex. MW1/3. None on behalf of workmen present to cross-examine him. So cross-examination marked nil. I have heard the arguments of Ld. A/R for the management. On 17.08.2015 and reserve award allowing workmen to argue their case before passing award. But none turn up on behalf of workmen to argue the case. In these circumstances issue no. 1 is liable to be decided in favour of management and against workmen on the basis of uncontroverted evidence of management. Which is accordingly decided.

Issue no. 2 is relating to relief but issue no. 1 has already been decided against workmen and in favour of management. Hence workmen are entitled to no relief. So, issue no. 2 is not required to be decided.

Reference is liable to be decided against workmen and in favour of management. Which is accordingly decided.

Award is accordingly passed.

Dated: 3.9.2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 2015

का.आ. 1976.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 14/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/10/2015 को प्राप्त हुआ था।

[सं० एल-20012/04/2009-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 5th October, 2015

S.O. 1976.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 14/2009 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 05/10/2015.

[No. L-20012/04/2009-IR (CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act. 1947.

Reference No. 14 of 2009

Employer in relation to the management of P.B. Area,
M/S. BCCL

And

Their workman.

Present:

Sri R. K. Saran, Presiding Officer.

Appearances:

For the Employers :— Shree D.K. Verma, Advocate.

For the Workman :— Shree S.P. Rakshit, Advocate.

State : Jharkhand

Industry : Coal

Dated: 7/9/2015

AWARD

By order No. L-20012/04/2009 IR-(CM-1), dated 26/03/2009, the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act. 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE.

"Whether the action of the management of P.B. Area of M/S BCCL in not regularising the service of Sri Shiv Prasad Yadav as Banks man is justified and legal? (ii) To what relief is the workman concerned entitled and from what date ?"

2. The case is received from the Ministry of Labour on 13.04.2009. After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 16/08/2010. After long delay the management files their written statement-cum-rejoinder on 19.12.2012. Two witnesses examined on behalf of the workman and document of workman marked as W-1 to W-4.

3. The case of workman is that the management is not promoting the concerned workman as Banksman since 2002. The aforesaid post is a permanent post and prior to the concerned workman another workman was holding same post and after retirement, the present workman is holding the post from the date of his retirement i.e. from 2002. The concerned workman has not been paid with the Banksman salary from the year 2002. But the management forcefully taking the work of Banksman from the workman concerned. It is also said the concerned workman is performing the duties as Banksman without getting salary of Banksman. The demand of the workman is to regularise him in the service as Banksman, from 2002.

4. The case of the management is that the workman concerned is permanent employee and designated as onsetter. Since the job of onsetter and Banksman are similar, he was deployed temporarily to work as Banksman against

leave and sick vacancy. The workman is an underground workers. The underground worker is not entitled to regularisation in surface.

5. The workman claims that though he is working as Banksman in the mines from 2002 as per the direction of mines manager, he be given the designation of Banksman.

6. The management does not dispute the position, but deny to give him the designation.

7. On quarry, it is learnt, that there will be no financial loss to the management on which the manager of south Balihari colliery recommend and putting the note that the workman is performing the duties as Banksman since long. He also reported that the post of Banksman is shortage as

per manpower Budget. He also recommended as he has been working as Banksman properly.

8. Considering the facts and circumstances of this case and perusing the documents of parties, I hold that the action of the management of P.B. Area of M/S. BCCL in not regularising the service of Sri Shiv Prasad Yadav as Banksman is not justified. Hence the management is directed to give the workman Banksman designation soon after the publication of the award and regularised him in the said post.

This is my award.

R.K. SARAN, Presiding Officer